

**JUNE 20, 2012
REGULAR TOWN BOARD MEETING**

Town Hall

7:00 P.M.

Greg Post, Supervisor led the pledge to the flag.

Roll Call

Present: Supervisor Post
Deputy Supervisor Underhill
Councilman Lang
Councilwoman Michalak

Others

Present: Town Clerk Morasco

The Supervisor called the meeting to order at 7:00 P.M.

May 16, 2012 Regular Town Board Meeting: Motion Deputy Supervisor Underhill, second Councilwoman Michalak to approve the minutes as written.

Ayes: Underhill, Michalak, Lang, Post

MOTION CARRIED by unanimous vote (4-0)

RESOLUTION NO. 107 :

Councilman Lang offered the following:

**RESOLUTION ACKNOWLEDGING THAT THE REQUIRED AUDIT OF THE COURT
RECORDS AND DOCKETS WAS CONDUCTED**

WHEREAS, Section 2019-a of the Uniform Justice Court Act requires that Town Justices annually provide their court records and dockets to their respective Town Auditing Board, and that such records be audited and that fact be entered into the minutes of the Board's proceedings; and

WHEREAS, an audit was conducted of the Town Justices records and dockets by Freed, Maxick & Battaglia, P.C.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby acknowledges that the required audit of the Court Records and Dockets was conducted and hereby directs the Supervisor to forward a copy of the auditor's report along with a copy of this resolution to Linda Miller, Chief Internal Auditor, New York State Office of Court Administration, 98 Niver Street, Cohoes, New York 12047.

Second by: Deputy Supervisor Underhill

Ayes: Lang, Underhill, Michalak, Post

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 108:

Deputy Supervisor Underhill offered the following:

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**RESOLUTION TO AUTHORIZE A RURAL DEVELOPMENT FUNDING APPLICATION FOR
THE WEST MAIN STREET ROAD SEWER DISTRICT PROJECT**

"RESOLVED, that the Supervisor of the Town of Batavia, Genesee County, New York, is hereby authorized as the official representative of the Town to execute and submit the application for loan and grant assistance to the USDA Rural Development for improvements to the Town of Batavia West Main Street Road Sewer District and is hereby directed and authorized to act in connection with the submission of the application and to provide such additional information as may be required.

FURTHER RESOLVED, that the Supervisor is hereby authorized to execute all other documents as may be necessary following the USDA Rural Development's approval of said grant and loan.

Second by: Councilman Lang
Ayes: Underhill, Lang, Michalak, Post
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 109:

Supervisor Post offered the following:

**RURAL DEVELOPMENT APPLICATION-TOWN ATTORNEY
WEST MAIN STREET ROAD SEWER DISTRICT**

WHEREAS, in order to complete the Rural Development Application for the West Main Street Road Sewer District the Town Supervisor is required to execute an agreement between the Town and the Town's Attorney, Kevin Earl for work performed by them in relation to the project; and

WHEREAS, the fee for these services are stipulated in the agreement (attached).

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement between the Town of Batavia and the Town's Attorney, Kevin Earl for services rendered in connection with the application to Rural Development for the West Main Street Road Sewer District, contingent upon USDA Rural Development approval.

Second by: Deputy Supervisor Underhill
Ayes: Post, Underhill, Michalak, Lang
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 110:

Councilwoman Michalak offered the following:

**RURAL DEVELOPMENT APPLICATION-ENGINEERING
WEST MAIN STREET ROAD SEWER DISTRICT**

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WHEREAS, in order to complete the Rural Development Application for the West Main Street Road Sewer District the Town Supervisor is required to execute an agreement between the Town and Clark Patterson Lee for work to be performed by them in relation to the project; and

WHEREAS, the fee for these services are stipulated in the agreements (attached).

NOW THEREFORE, BE IT RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreements between the Town of Batavia and Clark-Patterson Lee for services to be rendered in connection with the application to Rural Development for the West Main Street Road Sewer District, contingent upon USDA Rural Development approval.

Second by: Councilman Lang
Ayes: Michalak, Lang, Underhill, Post
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 111:

Councilman Lang offered the following:

RURAL DEVELOPMENT APPLICATION-FINANCIAL ADVISER
WEST MAIN STREET ROAD SEWER DISTRICT

WHEREAS, in order to complete the Rural Development Application for the West Main Street Road Sewer District the Town Supervisor is required to execute an agreement between the Town and Municipal Solutions, Incorporated for work performed by them in relation to the project; and

WHEREAS, the fee for these services are stipulated in the agreement (attached).

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement between the Town of Batavia and Municipal Solutions, Incorporated for services rendered in connection with the application to Rural Development for the West Main Street Road Sewer District, contingent upon USDA Rural Development approval.

Second by: Councilwoman Michalak
Ayes: Lang, Michalak, Underhill, Post
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 112:

Deputy Supervisor Underhill offered the following:

RURAL DEVELOPMENT APPLICATION-AUDITOR
WEST MAIN STREET ROAD SEWER DISTRICT

WHEREAS, in order to complete the Rural Development Application for the West Main Street Road Sewer District the Town Supervisor is required to execute an agreement between the Town and

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Freed, Maxick & Battaglia for work performed by them in relation to the project; and

WHEREAS, the fee for these services are stipulated in the agreement (attached).

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement between the Town of Batavia and Freed, Maxick & Battaglia for services rendered in connection with the application to Rural Development for the West Main Street Road Sewer District, contingent upon USDA Rural Development approval.

Second by: Councilman Lang

Ayes: Underhill, Lang, Michalak, Post

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 113:

Supervisor Post offered the following:

RURAL DEVELOPMENT APPLICATION-BOND COUNSEL
WEST MAIN STREET ROAD SEWER DISTRICT

WHEREAS, in order to complete the Rural Development Application for the West Main Street Road Sewer District the Town Supervisor is required to execute an agreement between the Town and Hodgson Russ, LLP for work performed by them in relation to the project; and

WHEREAS, the fee for these services are stipulated in the agreement (attached).

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement between the Town of Batavia and Hodgson Russ, LLP for services rendered in connection with the application to Rural Development for the West Main Street Road Sewer District, contingent upon USDA Rural Development approval.

Second by: Councilman Lang

Ayes: Post, Lang, Underhill, Michalak

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 114:

Councilwoman Michalak offered the following:

PRESENT:

Hon. Gregory H. Post, Supervisor
Hon. Alfred Lang, Councilperson
Hon. Daniel Underhill, Councilperson
Hon. Patti Michalak, Councilperson

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In the Matter of the Establishment of the Town of Batavia
West Main Street Road Sewer District, in the Town of
Batavia, in the County of Genesee, New York, pursuant to
Article 12-A of the Town Law.

FINAL ORDER ESTABLISHING
THE WEST MAIN STREET ROAD SEWER DISTRICT
JUNE 20, 2012

WHEREAS, the Town Board of the Town of Batavia (herein called "Town Board" and "Town", respectively), in the County of Genesee, New York, has, pursuant to Town Law Article 12-A, caused the Town of Batavia Engineering Department, competent engineers duly licensed by the State of New York, to prepare a map, plan and report for the establishment of the Town of Batavia West Main Street Road Sewer District (the "District") in the Town, with proposed improvements consisting of the construction and installation of approximately 11,350 linear feet of new eight (8) inch diameter sanitary sewer gravity main and approximately 3,600 linear feet of new six (6) inch sanitary sewer force main to run starting on West Main Street Road and connecting to the west boundary of current Sewer District No. 2, and thence running westerly along West Main Street Road for approximately 10,300 feet, and also running northerly along Kelsey Road from its intersection with West Main Street Road for a distance of approximately 1,200 feet, together with all relating right-of-way costs, site work and other ancillary work, apparatus and other improvements and costs incidental thereto (and as more specifically described in such map, plan and report) (collectively, the "Sewer Improvement"); and

WHEREAS, pursuant to the Order duly adopted on February 15, 2012, the Town Board determined to proceed with the proposed establishment of the District and adopted an Order reciting a description of the boundaries of the District in a manner sufficient to identify the lands included therein as in a deed of conveyance, the improvements proposed, the maximum amount proposed to be expended for the construction of sewer improvements in connection with the establishment of the District, the proposed method of financing to be employed, the fact that a map, plan and report describing the same are on file in the Town Clerk's office for public inspection and specifying March 21, 2012, at 6:30 o'clock p.m. (Prevailing Time) as the time when, and the Town Hall, located at 3833 West Main Street Road, in the Town, as the place where, the Town Board would meet to consider the proposed establishment of the District and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by law; and

WHEREAS, following publication and posting of certified copies of said Order pursuant to Article 12-A of the Town Law and after a public hearing duly held by the Town Board at the time and place herein referred to, the Town Board, by resolution duly adopted on March 21, 2012, determined that the notice of public hearing was published and posted as required by law and was otherwise sufficient, that all the property and property owners included within the proposed District were benefited thereby, that all the property and property owners benefited were included within the limits of the proposed District, that it

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was in the public interest to establish the District and approved the establishment of the District and the construction of Sewer Improvements in connection with the District, as hereinabove described, at a cost not to exceed \$2,822,000; and that the plan of financing is the issuance of serial bonds in the amount of \$2,822,000, said amount to be offset by any federal, state, county and/or local funds received including, but not limited to, a CDBG grant and other grants totaling approximately \$1,600,000, and unless paid from other sources or charges, the costs of said establishment of the District shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law; and

WHEREAS, said resolution adopted March 21, 2012, was subject to permissive referendum and the notice setting forth the date of adoption of said resolution, which concisely stated the purpose and effect thereof, was duly posted and published as required by law; and

WHEREAS, on March 30, 2012 petitions were duly presented and filed in the office of the Town Clerk by the requisite number of owners of taxable real property requesting a referendum be held on the establishment of the proposed District; and

WHEREAS, on June 12, 2012 a proposition for the approval of the establishment of the proposed District was submitted at a Special Town election to the owners of taxable real property of the proposed District; and

WHEREAS, the voters voting at such Special Town election approved such proposition; and

WHEREAS, permission of the State Comptroller is not required with respect to the establishment of the District because the estimated cost of the District to the Typical Property (as defined by Town Law) is not above the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts, as computed by the State Comptroller, and the Town has filed a certified copy of the Order with the State Comptroller as required by Town Law;

NOW, THEREFORE, BE IT

ORDERED, that the establishment of the District is hereby approved, in the Town of Batavia, to be known as the Town of Batavia West Main Street Road Sewer District in the Town of Batavia, situate wholly outside of any incorporated village or city, and bounded and described as follows:

All that tract or parcel of land situate in the Town of Batavia, County of Genesee, State of New York, described as follows:

Beginning at a point at the westerly line of the Existing Town of Batavia Sewer District No. 2 at the centerline of West Main Street Road (NYS Route 5) (99 feet wide right-of-way); thence,

1. Southerly, along the westerly line of the existing Town of Batavia Sewer District, a distance of 685 feet, more or less, to the southeasterly corner of tax account number 11-2-55; thence,

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2. Westerly, along the southerly property lines of tax account numbers 11-2-55, 11-2-54, 11-2-48, 11-2-47, 11-2-46, 11-2-45, 11-2-44, 11-2-43, 11-2-42, 11-2-41, 11-2-40, 11-2-39, 11-2-38, 11-2-37, 11-2-36, 11-2-35, 11-2-34, 11-2-33, 11-2-32, 11-2-31, 11-2-30, 11-2-29, 11-2-17.2, 11-2-17.1, 11-2-16.2, 11-2-16.1, 11-2-14, 11-2-11, 11-2-5, 11-2-4, 11-1-23, 11-1-20 and 11-1-19, a distance of 9,253 feet, more or less, to the southeasterly corner of tax account number 11-1-17; thence,
3. Westerly, along the southerly property line of tax account number 11-1-17, a distance of 288 feet, more or less, to a point on the centerline of Wortendyke Road (49.5 feet wide right-of-way); thence,
4. Southerly, along the centerline of Wortendyke Road, a distance of 2,411 feet, more or less, to a point on centerline of Wortendyke Road at the easterly extension of the southerly property line of 11-1-60; thence,
5. Westerly, along the southerly property line of tax account number 11-1-60, a distance of 1,281 feet, more or less, to the southwesterly corner thereof; thence,
6. Northerly, along the westerly property line of tax account number 11-1-60 and 11-1-61, a distance of 2,500 feet, more or less, to the centerline of West Main Street Road; thence,
7. Westerly, along the centerline of West Main Street Road a distance of 100 feet, more or less, to a point on the centerline of said road at the southerly extension of the westerly line of tax account number 6-1-17.2; thence,
8. Northerly, through the right-of-way of West Main Street Road and along the westerly property line of tax account 6-1-17.2, a distance of 250 feet, more or less, to the northwesterly corner thereof; thence,
9. Easterly, along the northerly property line of tax account number 6-1-17.2, a distance of 100 feet, more or less, to the northeasterly corner thereof; thence,
10. Northerly, along the westerly property line of tax account number 11-1-2.1, a distance of 110 feet, more or less, to the northwesterly corner thereof; thence,
11. Easterly, along the northerly property line of tax account number 11-1-2.1 a distance of 115 feet, more or less, to the northeasterly corner thereof; thence,
12. Northerly, along the westerly property line of tax account number 11-1-3, a distance of 90feet, more or less, to the northwesterly corner thereof; thence,
13. Easterly, along the northerly property lines of tax account numbers 11-1-3, 11-1-4, 11-1-5, 11-1-6, 11-1-7, 11-1-8, 11-1-9, 11-1-10, 11-1-11.1, 11-1-11.2, 11-1-12 and 11-1-13, a distance of 676 feet, more or less, to the northeasterly corner of tax account number 11-1-12; thence,
14. Northerly, along the westerly property line of tax account numbers 11-1-13 and 11-1-14, a distance of 964 feet, more or less, to the northwesterly corner thereof; thence,
15. Easterly, along the northerly property line of tax account number 11-1-14, a distance of 1,201 feet, more or less, to a point along the northeasterly corner thereof; said point being 500 feet north of the centerline of West Main Street Road; thence,

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16. Northeasterly, through the lands of tax account number 11-1-16, along a line 500 feet northerly of and parallel to the centerline of West Main Street Road, a distance of 246 feet, more or less, to the centerline of Stegman Road (49.5 feet wide right-of-way); thence,
17. Southerly, along the centerline of Stegman Road a distance of 28 feet, more or less, to a point on the centerline of Stegman Road at the westerly extension of the northerly property line of tax account number 7-1-54.112; thence,
18. Northeasterly, through the Stegman Road right-of-way along the northwesterly property line of tax account number 7-1-54-.112, a distance of 623 feet, more or less, to the northeasterly corner thereof; thence,
19. Northerly, along the westerly property line of tax account number 7-1-52, a distance of 753 feet, more or less, to the northwesterly corner thereof; thence,
20. Easterly, along the northerly property lines of tax account numbers, 7-1-52, 7-1-51 and 7-1-50, a distance of 545 feet, more or less, to the northeasterly corner of tax account number 7-1-50; thence,
21. Southerly, along the easterly property line of tax account number 7-1-50, a distance of 228 feet, more or less, to the northwesterly corner of tax account number 7-1-49; thence,
22. Easterly, along the northerly line of tax account number 7-1-49, a distance of 244 feet, more or less, to the northeasterly corner thereof; thence,
23. Northerly, along the westerly property line of tax account number 7-1-47, a distance of 208 feet, more or less, to the northwesterly corner thereof; thence,
24. Easterly, along the northerly line of tax account number 7-1-47, a distance of 571 feet, more or less, to the northeasterly corner thereof; thence,
25. Northerly, along the westerly property lines of tax account numbers 7-1-41.111, 7-1-41.121 and 7-1-41.112, a distance of 576 feet, more or less, to the northwesterly corner of 7-1-41.112; thence,
26. Easterly, along the northerly lines of tax account numbers 7-1-41.112 and 7-1-41.2, a distance of 339 feet, more or less, to the centerline of Kelsey Road (49.5 feet wide right-of-way); thence,
27. Southerly, along the centerline of Kelsey Road, a distance of 51 feet, more or less, to a point on said centerline; thence,
28. Easterly, along the northerly line of tax account number 7-1-38, a distance of 1,203 feet, more or less, to the northeasterly corner thereof; thence,
29. Northerly, along the westerly property line of tax account number 7-1-87.111, a distance of 3,021 feet, more or less, to the northwesterly corner thereof, thence,
30. Easterly, along the northerly lines of tax account numbers 7-1-87.111 and 7-1-87.2, a distance of 3,769 feet, more or less, to the northeasterly corner of tax account number 7-1-87.2; thence,
31. Southerly, along the westerly bounds of the existing sewer district, a distance of 3,075 feet, more or less, to the northwesterly corner of tax account number 7-1-23.1; thence,

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32. Easterly, along the southerly line of the existing sewer district and through the lands of 7-1-25.1, a distance of 450 feet, more or less, to the northeasterly corner thereof; thence,
33. Northerly, along westerly line of the existing sewer district and along the westerly line of tax account number 7-1-23.1, a distance of 263 feet, more or less, to the northwesterly corner thereof; thence,
34. Easterly, along the westerly line of the existing sewer district and along the northerly line of tax account number 7-1-23.1, a distance of 200 feet, more or less, to the northeasterly corner thereof; thence,
35. Southerly, along the westerly line of the existing sewer district and along the easterly line of tax account number 7-1-23.1, a distance of 360 feet, more or less, to an easterly corner thereof; thence,
36. Easterly, along the southerly line of existing sewer district and along the northerly line of tax account number 7-1-23.1, a distance of 100 feet, more or less, to the northeasterly corner thereof; thence,
37. Southerly, along the westerly line of the Existing Town of Batavia Sewer District No. 2, a distance of 250 feet, more or less, to the point of beginning.

Town of Batavia West Main Street Road Sewer District as described above contains approximately 583.2 acres of land.

AND BE IT FURTHER

ORDERED, that the Town of Batavia West Main Street Road Sewer District hereinabove referred to shall be constructed as set forth in the said Order Calling the Public Hearing, at a cost not to exceed \$2,822,000, and the plan of financing is the issuance of serial bonds in the amount of \$2,822,000, said amount to be offset by any federal, state, county and/or local funds received including, but not limited to, a CDBG grant and other grants totaling approximately \$1,600,000, and unless paid from other sources or charges, the costs of said establishment of the District shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law; and be it further

ORDERED, that within ten (10) days after adoption of this Order, the Town Clerk shall record with the Clerk of the County of Genesee and file with the Department of Audit and Control in Albany, New York copies of this Order, certified by the Town Clerk

Second by: Deputy Supervisor Underhill

Ayes: Michalak, Underhill, Lang, Post

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 115:

Councilman Lang offered the following:

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A BOND RESOLUTION, DATED JUNE 20, 2012, OF THE TOWN BOARD OF THE TOWN OF BATAVIA, GENESEE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING (A) A CAPITAL IMPROVEMENTS PROJECT WITHIN A BENEFITTED AREA OF THE TOWN KNOWN AS THE WEST MAIN STREET ROAD SEWER DISTRICT, (B) THE CONSTRUCTION OF IMPROVEMENTS THEREIN, AT AN ESTIMATED MAXIMUM COST OF \$2,822,000, AND (C) THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,822,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Batavia, Genesee County, New York (the "Town"), pursuant to Article 12-A of the Town Law, created a sewer district designated and known as "The Town of Batavia West Main Street Road Sewer District" (the "Sewer District"); and

WHEREAS, the Town Board desires to undertake a project (the "Project") generally consisting of the construction of improvements within the Town of Batavia West Main Street Road Sewer District; and

WHEREAS, by Resolutions the Town Board took the following actions with respect to the Project: (a) prepared maps, plans and boundaries for the Sewer District and the Project, (b) held a public hearing with respect to the Project, (c) determined that the Project would not have a significant effect on the environment under Article 8 of the Environmental Conservation Law, and (d) determined that the requirements of Article 12-A of the Town Law had been satisfied with respect to the Project (including, but not limited to, voter approval of a proposition submitted to the voters on June 12, 2012) and further determined to undertake the Project; and

WHEREAS, the Town Board desires to issue obligations of the Town to finance a portion of the costs of the Project;

NOW THEREFORE,

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1: The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is a certain capital improvements project, consisting of the construction and installation of approximately 11,350 linear feet of new eight (8) inch diameter sanitary sewer gravity main and approximately 3,600 linear feet of new six (6) inch sanitary sewer force main to run starting on West Main Street Road and connecting to the west boundary of current Sewer District No. 2, and thence running

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westerly along West Main Street Road for approximately 10,300 feet, and also running northerly along Kelsey Road from its intersection with West Main Street Road for a distance of approximately 1,200 feet, together with all relating right-of-way costs, site work and other ancillary work, apparatus and other improvements and costs incidental thereto for the foregoing purpose. The estimated maximum cost of said purpose is \$2,822,000.

SECTION 2: The Town Board plans to finance the estimated maximum cost of said purpose by the issuance of serial bonds in an amount not to exceed \$2,822,000 of said Town, said amount to be offset by any federal, state, county and/or local funds received including, but not limited to, a CDBG grant and other grants totaling approximately \$1,600,000, and unless paid from other sources or charges, the costs of said establishment of the District shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law.

SECTION 3: It is hereby determined that said purpose is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is forty (40) years.

SECTION 4: Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5: It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6: The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. Unless paid from other sources or charges, the costs of said establishment of the District shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of said Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7: Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

SECTION 8: The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of

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this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9: The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10: The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11: The Town has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

SECTION 12: The Town Supervisor is hereby authorized to execute and deliver in the name and on behalf of the Town a project financing agreement prepared by the New York State Environmental Facilities Corporation ("EFC") (the "SRF Project Financing Agreement"). The Town Supervisor and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the SRF Project Financing Agreement.

SECTION 13: The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

38. Such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or
The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and

an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 14: This resolution is effective immediately

SECTION 15: The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in the Town and hereby designated as the

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official newspaper of the Town for such publication.

Second by: Deputy Supervisor Underhill
Ayes: Lang, Underhill, Michalak, Post
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 116:

Deputy Supervisor Underhill offered the following:

FIRE ALARM SYSTEM UPGRADE

WHEREAS, West Fire Systems, Incorporated installed the Fire Alarm System in the Town Hall and Highway Facility in 2002; and

WHEREAS, West Fire has submitted a proposal for an upgrade to the fire system in the amount of nine hundred, ninety dollars (\$990.00), (proposal attached).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase of the Fire Alarm System Upgrade from West Fire Systems, Incorporated, in the amount of nine hundred, ninety dollars (\$990.00); and be it

FURTHER RESOLVED, the Supervisor is authorized to execute the necessary documents relating to this upgrade; and be it

FURTHER RESOLVED, the cost will be expended from budgetary line item A1620.200.

Second by: Councilman Lang
Ayes: Underhill, Lang, Michalak, Post
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 117:

Supervisor Post offered the following:

**RESOLUTION TO AUTHORIZE SUBMITTAL OF GRANT APPLICATION TO NYS
OPRHP FOR BATAVIA TOWN PARK LAND ACQUISITION**

RESOLVED, the Town Supervisor of the Town of Batavia, is hereby authorized and directed to file an application for funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of Title 9 of the Environmental Protection Act of 1993, in an amount not to exceed \$400,000, and upon approval of said request to enter into and execute a project agreement with the State for such financial assistance to acquire additional land for the Batavia Town Park on Galloway Road and, if appropriate, a conservation easement/preservation covenant to the deed of the

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assisted property.

Second by: Deputy Supervisor Underhill
Ayes: Post, Underhill, Michalak, Lang
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 118:

Councilwoman Michalak offered the following:

**PROPOSAL OF SERVICES AGREEMENT –
BETWEEN THE TOWN OF BATAVIA AND STUART I. BROWN ASSOCIATES
ENVIRONMENTAL PROTECTION FUND GRANT APPLICATION**

WHEREAS, the Town of Batavia is planning to submit an application for a grant under the Environmental Protection Fund (EPF) for funding to acquire land for recreation; and

WHEREAS, Stuart I. Brown Associates submitted a proposal to prepare the EPF grant at a cost of one thousand, eight hundred dollars (\$1,800.00) (proposal attached).

NOW, THEREFORE, BE IT RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to retain Stuart I. Brown Associates to prepare the 2012 Environmental Protection Fund Grant Application at a cost of one thousand, eight hundred dollars (\$1,800.00) and to execute the agreement between the Town of Batavia and Stuart I. Brown Associates.

Second by: Deputy Supervisor Underhill
Ayes: Michalak, Underhill, Lang, Post
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 119:

Councilman Lang offered the following:

AUTHORIZING BUDGET TRANSFERS FOR 2012

RESOLVED, the Batavia Town Board hereby authorizes the following Budget Transfers:

General Fund:

<u>From</u>		<u>Amount</u>	<u>To</u>	
A1940.400	Land Acquisition	631.00	A1950.400	Taxes on Property
A1989.400	Miscellaneous Expense	20.00	A4320.400	Mental Health Program
A1989.400	Miscellaneous Expense	2332.00	A6410.400	Publicity
A8020.102	Planning Board Members	2660.00	A8020.405	Comp Master Plan
A8164.102	Sanitary LF PT Pers Svc	67.00	A8164.401	Sanitary LF Grease Filters
A8164.402	Sanitary LF PT Pers Svc	1865.00	A8164.402	Sanitary LF Engineering
A1620.404	Town Hall Contractual	3334.00	A9050.800	Unemployment Ins
A1620.404	Town Hall Contractual	840.00	A8020.405	Comp Master Plan

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A1620.404	Town Hall Contractual	1334.00	A8164.402	Sanitary LF Engineering
A1620.404	Town Hall Contractual	816.00	A9060.801	Health Ins Medical Exp
	Unexpended Fund Balance	200000.00	A6460.410	Industrial Development Agency

Highway

DA5110.400	General Repairs Contractual	19440.00	DA5112.200	Capital Outlay Improvements
DA9060.800	Health Ins	170.00	DA9089.803	Medical Reimbursement
DA5148.100	Svc for Other Gov Pers Svc	32.00	DA5148.400	Svc for Other Gov Contractual

Sewer District 1

SS1-8120.400	Sanitary Sewers Contractual	3123.00	SS1-8120.102	Sanitary Sewer Pers Svc PT
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Sewer District 2

SS2-8120.102	Sanitary Sewers Contractual	40.00	SS2-8120.102	Sanitary Sewers Pers Svc PT
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Water

SW8340.400	Trans & Dist Contractual	730.00	SW8340.102	Trans & Dist Pers Svc PT
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Second by: Deputy Supervisor Underhill
Ayes: Lang, Underhill, Michalak, Post
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 120:

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO EXPRESS THE TOWN OF BATAVIA'S WILLINGNESS
TO OPERATE AND MAINTAIN THE PROPOSED TOWN OF ALEXANDER WATER
DISTRICT NO. 2 WATER SYSTEM**

WHEREAS, the Town of Alexander is applying for a Community Development Block Grant to obtain funding for use to construct a water main along NYS Route 98 between the northern boundary of the Village of Alexander and the southern boundary of the Town of Batavia to serve an area designated as Town of Alexander Water District No. 2, and

WHEREAS, the Town of Alexander desires to enter into a service agreement with the Town of Batavia through which the Town of Batavia will operate and maintain the Town of Alexander Water District No. 2 on behalf of the Town of Alexander,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Batavia expresses its willingness and intent to enter into an inter-municipal service agreement with the Town of Alexander to operate and maintain the Town of Alexander Water District No. 2 water system on behalf of the Town of Alexander provided that the following conditions are met:

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- (a) The Town of Alexander enters into a water supply agreement to purchase water from Genesee County to supply the Town of Alexander Water District No. 2, and
- (b) The Town of Batavia and the Town of Alexander are able to reach agreement satisfactory to both municipalities on the terms and conditions for an inter-municipal services agreement through with the Town of Batavia would operate and maintain said water system on behalf of the Town of Alexander.

Second by: Councilman Lang
Ayes: Underhill, Lang, Michalak, Post
APPROVED by unanimous vote (4-0)

Discussion- Supervisor informed that there is no obligation here, just an offer similar to what we have done with other Town's that intersect with the Town of Batavia.

RESOLUTION NO. 121:

Supervisor Post offered the following:

**RESOLUTION BY THE TOWN OF BATAVIA
ENCOURAGING PARTICIPATION IN THE IN THE
GENESEE COUNTY EMERGENCY SERVICES MUTUAL AID PLAN**

RESOLVED, the Town of Batavia encourages participation by the Town of Batavia Fire Department in the Genesee County Emergency Services Mutual Aid Plan as now in force and as amended from time to time and certifies to the Genesee County Legislature through its County Fire Coordinator that no restriction exists against "outside service" by such fire department within the meaning of Section 209 of the General Municipal Law which would affect the power of such fire department to participate in such plan, and be it further

RESOLVED, that a copy of this resolution be filed with the Genesee County Fire Coordinator.

Second by: Councilman Lang
Ayes: Post, Lang, Underhill, Michalak
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 122:

Councilwoman Michalak offered the following:

**AGREEMENT FOR PRELIMINARY ARCHITECTURAL AND ENGINEERING SERVICES
FOR THE SHARED TOWN COURT AND GENESEE COUNTY CHAMBER OF COMMERCE
VISITOR CENTER**

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WHEREAS, the Town of Batavia and the Genesee County Chamber of Commerce have been collaborating on a shared facility for Town Court activities and a Visitor Center, and

WHEREAS, the land for such facility has been obtained by the Town of Batavia, and,

WHEREAS, the next step in the process is to develop programming, conceptual plans and investigate funding opportunities, and,

WHEREAS, Clark Patterson Lee has submitted a proposal for such services in the amount of \$24,000 (attached), and

NOW, THEREFORE, BE IT RESOLVED, the Batavia Town Board authorizes the Supervisor to retain Clark Patterson Lee for the preliminary work involved with the shared facility for the amount of Twenty-Four Thousand dollars (\$24,000.00) and to execute an agreement between the Town of Batavia and Clark Patterson Lee.

Second by: Deputy Supervisor Underhill
Ayes: Michalak, Underhill, Lang, Post
APPROVED by unanimous vote (4-0)

SUSPEND THE RULES-Motion Deputy Supervisor Underhill, second Councilman Lang to suspend the rules to introduce an additional resolution.

Ayes: Underhill, Lang, Michalak, Post
MOTION CARRIED by unanimous vote (4-0)

RESOLUTION NO. 123:

Councilman Lang offered the following:

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE TOWN OF BATAVIA AND
NYS OFFICE OF REAL PROPERTY SERVICES**

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the attached 2012 Memorandum of Understanding between the Town of Batavia and New York State Office of Real Property Services to clarify and outline the roles and responsibilities of each said party in the reassessment process.

Second by: Deputy Supervisor Underhill
Ayes: Lang, Underhill, Michalak, Post
APPROVED by unanimous vote (4-0)

Abstract No. 6-2012: Motion Councilman Lang, second Councilwoman Michalak to authorize the Supervisor to pay the following vouchers:

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General	\$254,313.09
Highway	288,186.77
Sewer No. 1	1,475.13
Sewer No. 2	1,996.22
Water	13,795.50
Ellicott	161,468.25
Creek	15,662.00
West Main Sewer	3,328.48
Total	\$740,225.44

Check numbers 16994 thru 17083 and 17085, Online \$5,062.95

Ayes: Lang, Michalak, Underhill, Post

MOTION CARRIED by unanimous vote (4-0)

DEPARTMENT REPORTS:

The Supervisor reported for the following departments:

Building: Zoning and Code are in the process of responding to concerns of issues.

Water/Sewer: In the process of soliciting funding for USDA for water districts and design on sewer districts

Highway: Working on repairing roads

Supervisor's Report:

Status Report on expenditures and revenues is available for the Board's review. The investment sheets will be entered into the minute book. The General and Reserve Funds are invested in a CD's paying a rate of 20%.

GAM- Next GAM Meeting is tomorrow evening, hosted by the Town of Alabama at the Alabama Hotel at 7:00 P.M.

NYS GOVERNMENT FINANCE OFFICERS ASSOCIATION (GFOA) SEMINAR-Motion was made by Deputy Supervisor Underhill, seconded by Councilman Lang authorizing the Secretary to the Supervisor and the Bookkeeper to attend the GFOA Summer Seminar July 19, 2012 at Terry Hills at a cost of \$75.00 each.

Ayes: Underhill, Lang, Michalak, Post

MOTION CARRIED by unanimous vote (4-0)

ASSESSOR SEMINAR-CORNELL UNIVERSITY-Motion was made by Deputy Supervisor

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Underhill, seconded by Councilwoman Michalak authorizing the Assessor to attend the Conformity of Data Collection Seminar at Cornell University in Ithaca, New York, July 18 and 19, 2012 at an approximate cost of \$700.00. The Town's vehicle will be used.

Ayes: Underhill, Michalak, Lang, Post

MOTION CARRIED by unanimous vote (4-0)

JUNK YARD LICENSES- Motion was made Councilman Lang, seconded by Councilwoman Michalak to approve the Junkyard Licenses for Joseph Barsuk Incorporated, Bushville Auto Parts and Herbert Diegelman Estate contingent upon the recommendation of the Building Inspector.

Ayes: Lang, Michalak, Underhill, Post

MOTION CARRIED by unanimous vote (4-0)

COMMUNICATIONS:

The Town Clerk reported on the following:

May Town Clerk monthly report collected a total of \$7,529.15, remitted \$7,016.02 to the Supervisor for the Local Share.

Thank you- Received a thank you note from the Friends of the Peace Garden for the Town's purchase of a flag and brick.

Liquor License- Received notice from Acme Holdings of NY, Inc. (Dibble Family Center) located at 41247 West Main St Rd that they have applied for their liquor license.

COMMITTEE REPORTS:

Parks- Councilwoman Michalak reported that the committee met with the Architect on redesigning Kiwanis Park redesign to include handicap assessable equipment. The new plan would allow for more use of the park.

ADJOURNMENT:

Motion Deputy Supervisor Underhill, second Councilman Lang to adjourn the Regular Town Board Meeting at 7:32 P.M.

Ayes: Underhill, Lang, Michalak, Post

MOTION CARRIED by unanimous vote (4-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk