

**DECEMBER 17, 2014
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
Councilman Zambito

Others

Present: Town Clerk Morasco
Roger Muehlig, Daily News Reporter

The Supervisor called the meeting to order at 7:05 P.M.

November 19, 2014 Public Hearing-Local Law 1 to Override Tax Cap and November 19, 2014 Regular Town Board Meeting: Motion Councilman Zambito, second Deputy Supervisor Underhill to approve the minutes as written.

Ayes: Zambito, Underhill, Michalak, Lang, Post
MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 221:

Councilman Lang offered the following:

**AUTHORIZING AGREEMENT FOR
FIRE PROTECTION SERVICES FOR FISCAL YEAR 2015**

WHEREAS, there has been duly established in the Town of Batavia a Fire Protection District known as the “Town of Batavia Fire Protection District” as such territory is more fully described in the Resolution establishing such District as was duly adopted by the Town Board of the Town of Batavia, Genesee County, New York, on March 24, 1948;

WHEREAS, it is proposed that a Contract be entered into with the Town of Batavia Fire Department, Inc. for the furnishing of fire protection in said District by said Town of Batavia Fire Department, Inc.; and

WHEREAS, due notice has been given of a Public Hearing held at the Town Hall of the Town of Batavia, New York on the 17th day of December, 2014, at 6:55 P.M. to consider such Contract, the notice thereof duly specifying the time and place of the Public Hearing as aforesaid and describing the time and place of the Public Hearing as aforesaid and describing in general terms and proposed Contract; and

WHEREAS, said Public Hearing was duly conducted as advertised and all persons interested

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therein and presenting themselves were heard; now, therefore, be it

RESOLVED, it is in the public interest for this Board to contract with the Town of Batavia Fire Department, Inc., and be it further

RESOLVED, upon receiving certified copies of resolutions duly adopted by said Town of Batavia Fire Department, Inc., membership and Directors approving the terms and conditions of said Contract that this Town Board shall contract with said Town of Batavia Fire Department, Inc. for the furnishing of fire protection to such District according to the terms of said Contract, a copy of which is annexed to this Resolution and is make a part thereof, and be it further

RESOLVED, such contract shall be executed on behalf of the Town of Batavia, New York by its Supervisor and Town Clerk.

Second by: Deputy Supervisor Underhill
Ayes: Lang Underhill, Michalak, Zambito, Post
APPROVED by unanimous vote (5-0)

TOWN OF BATAVIA FIRE DEPARTMENT AGREEMENT

THIS AGREEMENT made this ____ day of _____, 2015, by and between the **TOWN OF BATAVIA, NEW YORK**, (hereinafter designated as "Town") and the **TOWN OF BATAVIA FIRE DEPARTMENT, INC.** of Batavia, New York, (hereinafter designated as "Fire Department").

WITNESSETH:

WHEREAS, there has been duly established in the said Town of Batavia a fire protection district known as the "Town of Batavia Fire Protection District" as such' territory is more fully described in the Resolution establishing such District and duly adopted by the Town Board of the said Town of Batavia, Genesee County, New York on 24th day of March, 1948; and

WHEREAS, following a public hearing duly called, the said Town has duly authorized a Contract with the Fire Department for fire protection in said District upon the terms and conditions herein set forth; and

WHEREAS, this Agreement has also been duly authorized by the Directors and membership of the Fire Department, and the Fire Department has provided to the Town certified copies of Resolutions of approval of this Agreement by the Town of Batavia Fire Department Board of Directors and by its membership.

NOW, THEREFORE, the Town does engage the Fire Department to furnish fire protection to said District and the Fire Department agrees to furnish such protection in the manner following, to wit:

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1. The equipment and personnel of the Fire Department shall at all times during the term of this Agreement be subject to call for attendance upon any fire occurring in such District, and when notified by any means of a fire within the District, said Fire Department shall respond and attend upon the fire without delay with one or more companies and with suitable fire-fighting equipment and apparatus of the Fire Department. Upon arriving at the scene of the fire, the firefighters of the Fire Department attending shall proceed diligently and in every way reasonably suggested under the circumstances to the extinguishments of the fire and the saving of life and property in connection therewith.

2. The Fire Department covenants and agrees at all times to maintain in force on and in respect to vehicles and equipment owned by it or subject to its control or use, while responding to, attending at or leaving from fires, alarms or calls both inside and outside said District, including, but not limited to, responses in connection with Mutual Aid Plan referred to in Paragraph 5 of this Agreement, an underlying public liability insurance policy for injury to persons and property, including wrongful death, with limits of \$500,000.00 for each person, \$1,000,000.00 for each accident and \$250,000.00 property damage for each accident and an excess public liability policy in the amount of \$3,000,000.00 insuring the Fire Department and the Town against any loss by reasons of personal injury including wrongful death, or property damage caused or contributed to by the negligent operation of said vehicles and/or equipment in connection with a fire, alarm or call in or from said District or in connection with a mutual aid response. In addition, the Fire Department agrees at all times to maintain in force public liability insurance to protect itself and the Town from all other losses occurring in its operations other than those arising out of the use and operation of said vehicles and/or equipment to persons for injury, including wrongful death, and to property in amounts for underlying and excess liability similar to that maintained for vehicles and/or equipment. All liability insurance policies must be obtained through insurance companies licensed to do business within the State of New York, must name the Town of Batavia as insured and must be maintained for the life of this Agreement.

The Fire Department shall deliver a copy of the policy of said insurance to the Town prior to the execution of this Agreement, covenants to pay the premiums thereon in timely fashion and to have said insurance policies provide for thirty (30) days written notice to the Town prior to cancellation. If the Fire Department shall fail to pay said premiums due hereunder in a timely fashion, the Town shall have the right to pay the same and to deduct the cost thereof from the amounts due the Fire Department under paragraph 7 of this Agreement.

In addition, the Fire Department hereby covenants and agrees to indemnify and hold the Town harmless from any and all losses and damages which the Town may sustain, suffer or be required to pay by reason of any claims made against said Town for injury to persons or property, including wrongful death, arising out of the performance of this agreement by the Fire Department to the extent that said losses and damages are not fully covered and paid by the insurance referred to herein.

3. Should any loss or damage whatsoever be sustained to the fire apparatus or other equipment, said loss or damage, including the cost of materials and any other special or incidental expenses incurred in the operation of the fire apparatus or equipment of the Fire Department in answering, attending upon or returning from a call for assistance in said Town of Batavia Fire Protection District, irrespective of the cause thereof, shall be a charge upon the Fire Department and not against the Town or against the Town of Batavia Fire Protection District. This fact is taken into consideration by both parties in arriving at the

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consideration to be paid to the Fire Department pursuant to this Agreement.

4. To the extent that the same is not otherwise provided for by the Genesee County Mutual Aid Plan, by the county of Genesee or by some other source, the Town of Batavia shall pay at its own expense or provide necessary insurance coverage at its expense for any and all claims authorized by law for medical expenses, loss of wages, compensation or other claims arising by reason of the injury or death of a fireman, or member of the Fire Department Emergency Relief Squad, a Fire Police Squad or a Fire Patrol sustained while answering or attending upon or returning from any such call in said District.

5. The Fire Department is hereby authorized by the Town to participate in the Genesee County Mutual Aid Plan and to answer calls for aid and assistance according to said Mutual Aid Plan and System. Nothing contained in this Agreement shall be deemed to prevent the Fire Department from securing reimbursement from any entities other than the Town and the Town of Batavia Fire Protection District for either any loss or damage to its fire apparatus, equipment or materials used for the locality that issues a call for aid or for payments to injured or deceased firemen as provided by any law of the State of New York.

6. In the event that the fire-fighting equipment owned by the Fire Department is in such condition that said Fire Department is unable to fulfill its obligations under this contract to answer or attend any fire occurring in said Town of Batavia Fire Protection District for a period of twenty-one (21) days or longer, the Fire Department covenants to reimburse the Town on a pro rata basis the sums provided to be paid to the Fire Department pursuant to this Agreement retroactive to the first day of said twenty-one (21) day period for the entire period of time during which it is unable to fulfill its obligations under this Agreement.

7. A. The Town covenants and agrees to pay to the Fire Department in consideration for services to be performed pursuant to this Agreement the sum of Eight Hundred Nineteen Thousand Five Hundred Sixty-Eight Dollars (\$819,568.00).

B. The sums as stated in this paragraph to be due and payable on the 1st day of February, 2015, upon presentation to the Town of a duly verified voucher therefore.

8. The Town covenants to provide snowplowing services for the parking and driveway area to the Fire Hall owned by the Fire Department, as well as routine maintenance of said parking lot and driveway area, both only to the extent that the Superintendent of Highways of the Town determines that said services can be provided. The Fire Department agrees to provide all materials and supplies for said maintenance services; acknowledges that said routine maintenance services shall be provided only during normal business hours of the Town of Batavia Highway Department and as other Town Highway Department functions permit. The Fire Department further acknowledges that said snowplowing services shall be provided only after the Town's Superintendent of Highways is satisfied that the highways of the Town of Batavia are reasonably free and clear of ice and snow and that men and machinery under his supervision and control are free to provide said services. The Fire Department hereby covenants to indemnify and to hold the Town harmless for any injury, loss or damage which the Fire Department or any other person, firm or corporation may suffer, sustain or be required to pay by reason of the Town not providing or failing to provide adequate snowplowing and/or maintenance services under the provisions of this Paragraph.

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9. A. The Fire Department will provide an independent, certified audit of the financial affairs of the Fire Department.

B. Upon the Fire Department complying with the requirements of section A of this paragraph, the Town shall immediately pay to the Fire Department all remaining sums owing under the terms of this Agreement.

10. A. The Fire Department shall provide written notice to the Town of capital purchases as early as possible, but in no event not less than 30 days prior thereto; provided, however, that this provision shall not be construed as requiring or constituting any municipal approval or involvement in the corporate affairs of the Fire Department by the Town.

B. The Fire Department shall continue to exercise sound financial practices and planning, including maintenance of capital reserve accounts where feasible.

11. All moneys to be paid under any provision of this Agreement, as well as other payments which may be made from time to time according to applicable provisions of law which regulate the terms and provisions of this Agreement, shall be a charge upon the said Fire Protection District to be assessed and levied upon the taxable real property in said District and collected with the Town Taxes.

12. This Agreement shall become operative and effective from 12:01 a.m. January 1, 2015, and shall continue for a term of one (1) year which will expire at midnight on December 31, 2015.

13. It is understood and agreed that this contract is subject to the provisions of Section 184 of the Town Law of the State of New York.

IN WITNESS WHEREOF, the parties have duly executed and delivered this Agreement in duplicate the day and year first above written.

TOWN BOARD OF THE TOWN OF BATAVIA

BY _____
GREGORY H. POST

(SEAL)

ATTEST:

TERESSA M. MORASCO, TOWN CLERK

TOWN OF BATAVIA FIRE DEPARTMENT, INC.

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BY _____
JOHN FITZSIMMONS, PRESIDENT

(SEAL)

**STATE OF NEW YORK)
COUNTY OF GENESEE) ss:**

On the ____ day of _____, 2014, before me came GREGORY H. POST, to me known, who, being by me duly sworn, did depose and say that he resides at 8472 Seven Strings Road in the Town of Batavia, New York; and he is the Supervisor of the **TOWN OF BATAVIA, NEW YORK** the municipal corporation described in and who executed the foregoing Agreement; that he knows the seal of said Town; that it was affixed by order of the Town Board of said Town; and that he signed his name thereto by like order.

NOTARY PUBLIC

**STATE OF NEW YORK)
COUNTY OF GENESEE) ss:**

On the ____ day of _____, 2014, before me came John Fitzsimmons, to me known, who, being by me duly sworn, did depose and say that, he resides at 5009 East Main Street Road, Batavia, New York; and he is the President of the **TOWN OF BATAVIA FIRE DEPARTMENT, INC.** the corporation described in and which executed the foregoing Agreement; that he knows the seal of said Corporation; that it was affixed by order of the Board of Directors of said Corporation; and that he signed his name thereto by like order.

NOTARY PUBLIC

RESOLUTION NO. 222:

Deputy Supervisor Underhill offered the following:

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RESOLUTION TO AUTHORIZE INDOOR AIR QUALITY TESTING

WHEREAS, Town staff have experienced a change in indoor air quality and allergy symptoms;
and

WHEREAS, air quality testing has not been completed since the original construction of the
Town Hall; and

WHEREAS, the Town Engineering Department has requested a proposal from AECC
Environmental Consulting; and

WHEREAS, AECC Environmental Consulting has submitted a proposal to complete Indoor Air
Quality testing at a cost of One Thousand Eight Hundred dollars and no cents (\$1,800.00) (proposal
attached).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes AECC Environmental Consulting to
conduct the Indoor Air Quality testing at a cost of One Thousand Eight Hundred dollars and no cents
(\$1,800.00), and be it further

RESOLVED, the Supervisor is hereby authorized to execute the proposal acceptance, a copy of
which is annexed hereto and made part of the Town Board Minutes; and be it further

RESOLVED, the expenditure will be appropriated from line item A1620.402.

Second by: Councilman Zambito

Ayes: Underhill, Zambito, Lang, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 223:

Supervisor Post offered the following:

**APPLICATION X-TENDER/QUICK SCAN PRO
MAINTENANCE AGREEMENT
BETWEEN BIEL'S AND THE TOWN OF BATAVIA**

WHEREAS, the Town purchased Documentum Software (Application X-tender & Quick Scan
Pro in January 2009 from Biel's for records management; and

WHEREAS, in January 2010 additional modules and applications were purchased from Biel's
through the Local Government Records Management Grant funds received by the Town; and

WHEREAS, the annual maintenance cost for this software is five thousand, seven hundred,

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twelve dollars (\$5,712.00) (agreement attached), the current agreement expires January 13, 2015.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the annual Maintenance Agreement for the Documentum Software between the Town of Batavia and Biel's at a cost of five thousand, seven hundred, twelve dollars (\$5,712.00) for one (1) year starting January 14, 2015, a copy of which is annexed hereto and made part of the Town Board Minutes.

Second by: Councilman Lang

Ayes: Post, Lang, Underhill, Michalak, Zambito

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 224:

Councilwoman Michalak offered the following:

TRAINING WORKSHOP

RESOLVED, the Batavia Town Board hereby authorizes the following personnel to attend training workshops:

Brittany Witkop- NYS Local Government Training Webinar, "Smart Growth", December 29, 2014. There is no cost for this training.

Michael Pullinzi- NYS Governor's Office of Employee Relations- (Six courses; 4 credited at 1hour/course, 2 credited at .5 hour/course). Training has been completed and there was no cost for the training.

Michael Pullinzi-NY Department of State online training - (Four courses; 2 credited at 1 hour/course, 2 credited at 1.5 hours/course). Training has been completed and there was no cost for the training.

Second by: Deputy Supervisor Underhill

Ayes: Michalak, Underhill, Zambito, Lang, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 225:

Councilman Zambito offered the following:

**CODE ENFORCEMENT OFFICER AGREEMENT BETWEEN
THE TOWN OF BATAVIA AND THE TOWN OF PAVILION**

WHEREAS, the Town of Batavia and the Town of Pavilion entered into a Code Enforcement Officer Agreement for 2013; and

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WHEREAS, both Towns desire to continue this relationship, allowing Batavia to provide Code Enforcement Services, and

WHEREAS, the agreement addresses the need for the Town of Pavilion to have its Codes enforced by the Town of Batavia Code Officials.

NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Batavia, New York, that a proposed "First Amended Town of Batavia and the Town of Pavilion Code Enforcement Services Agreement", a copy of which shall be annexed hereto and made part of the Town Board Minutes, is hereby approved and the Town Supervisor is authorized and directed to sign this Agreement on behalf of the Town of Batavia.

Second by: Councilwoman Michalak

Ayes: Zambito, Michalak, Lang, Underhill, Post

APPROVED by unanimous vote (5-0)

FIRST AMENDED

TOWN OF BATAVIA AND PAVILION

CODE ENFORCEMENT

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, _____ by and between the **Town of Pavilion**, a municipal corporation with offices at 1 Woodrow Drive, Pavilion, NY 14525 ("Pavilion"), and the **Town of Batavia**, a municipal corporation with office at 3833 West Main Road, Batavia, NY 14020 ("Batavia"),

WHEREAS, pursuant to article 5-G of the General Municipal Law, Pavilion and Batavia are authorized to enter into an inter-municipal cooperative agreement for the provision of Code Enforcement services, and

WHEREAS, Batavia employs fully qualified Code Enforcement Officers to enforce Zoning Code, Fire and Building Codes and other various codes and regulations, and

WHEREAS, Pavilion has identified a need to have its Codes enforced by Batavia, and

WHEREAS, Batavia intends to continue to maintain the position of Code Enforcement Officer and to provide Code Enforcement Duties in both the Town of Batavia and the Town of Pavilion.

NOW THEREFORE, BE IT RESOLVED, pursuant to Article 5-G of the General Municipal Law, it is agreed as follows:

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First: That Pavilion shall appoint the Code Enforcement Officers of the Town of Batavia as its Code Enforcement Officers.

Second: In consideration for compensation for the services set forth herein, Pavilion shall pay Batavia fifteen thousand dollars (\$15,000.00) per year of this agreement. The sum shall be paid during the 2015 budget year to provide services for the year of 2015.

Third: The services that will be provided will be to administer the adopted NYS Building Codes, Town of Pavilion Zoning Code and Town of Pavilion Land Separation Law.

Fourth: Services provided will be on call and available during business hours of Monday thru Friday work week from 9am- 3pm.

Fifth: The Code Officer shall for all purposes be deemed an employee of Batavia. The Code Officer shall not in any way be construed as an employee of Pavilion. Batavia shall pay the Code Officers salary and make employer's contributions for retirement, social security, health insurance, worker's compensation, unemployment and other similar benefit.

Sixth: This agreement does not include attorney services and Pavilion shall provide and pay for all attorney services and expenses in its jurisdiction.

Seventh: This agreement shall become effective on January 1st 2015 and expire on December 31st 2015 with an option for either municipality to terminate this agreement upon a ninety (90) day written notice to the other municipality.

Eighth: There are no other agreements or understandings, either oral or written, between the parties affecting this agreement. No changes, additions or deletions of any portions of this agreement shall be valid or binding upon the parties hereto unless the same is approved in writing by the parties.

IN WITNESS WHEREOF, the Towns have caused this Agreement to be signed by the Supervisors and the Town Seal attached on the date first set forth above.

TOWN OF PAVILION

TOWN OF BATAVIA

Theron Howard, Supervisor

Gregory H. Post, Supervisor

STATE OF NEW YORK)
COUNTY OF GENESEE) SS.

On the _____ day of _____, 201____ before me, the undersigned, a Notary Public in and for said State, personally appeared **Theron Howard**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and

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acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

**STATE OF NEW YORK)
COUNTY OF GENESEE) SS.**

On the _____ day of _____, 20__ before me, the undersigned, a Notary Public in and for said State, personally appeared **Gregory H. Post**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

RESOLUTION NO. 226:

Councilman Lang offered the following:

**RESOLUTION TO APPROVE A FINANCIAL CLERICAL SERVICES
AGREEMENT WITH THE TOWN OF STAFFORD**

WHEREAS, the Town of Stafford needs to have services provided when its Financial Clerk is not available, and the Towns intend to enter into an intermunicipal cooperative agreement to have the Town of Batavia provide financial clerical services to the Town of Stafford, and

WHEREAS, the Town of Batavia has determined that it has the ability to provide the services by using the Batavia Town Financial Clerk.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that a proposed "Town of Batavia and Town of Stafford Financial Clerical Services Agreement", a copy of which is annexed hereto and made part of the Town Board Minutes, is hereby approved and the Town Supervisor is authorized and directed to sign this Agreement on behalf of the Town of Batavia.

Second by: Councilwoman Deputy Supervisor
Ayes: Lang, Michalak, Zambito, Underhill, Post
APPROVED by unanimous vote (5-0)

**TOWN OF BATAVIA AND TOWN OF STAFFORD
FINANCIAL CLERICAL SERVICES AGREEMENT**

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THIS AGREEMENT, made the _____ day of _____, 20____, by and between the **TOWN OF STAFFORD**, a municipal corporation organized and existing under the Laws of the State of New York, having its principal office located at 8903 Route 237, Stafford, New York 14143, (hereinafter referred to as “Stafford”), and the **TOWN OF BATAVIA**, a municipal corporation organized and existing under the Laws of the State of New York, having its principal office located at 3833 West Main Street Road, Batavia, New York 14020, (hereinafter referred to as “Batavia”).

WHEREAS, pursuant to Article 5-G of the General Municipal Law, Stafford and Batavia are authorized to enter into an intermunicipal cooperative agreement for the provision of financial clerical services, and

WHEREAS, Batavia currently is employing a Financial Clerk fully qualified to provide the financial services as required by law, and

WHEREAS, Stafford has identified a need to have financial clerical work to be provided by Batavia when Stafford’s Financial Clerk is not available, and

WHEREAS, Batavia intends to continue to maintain the position of Financial Clerk and to provide financial clerical duties in both the Towns of Batavia and Stafford.

NOW, THEREFORE, pursuant to Article 5-G of the General Municipal Law, it is agreed as follows:

1. Batavia agrees to provide financial clerical services to Stafford.
2. The services that will be provided will be to complete financial work as needed.
3. In consideration for compensation for the services set forth herein, Stafford shall pay Batavia a per hour rate. The hourly rate shall include the Financial Clerk’s wages, health insurance, retirement fund contribution and any other fringe benefits, and shall not exceed such hourly costs. The sum shall be paid on a monthly basis.
4. Services provided will be as requested and available during business hours of a Monday through Friday work week from 8:00 a.m. to 3:00 p.m.
5. The Financial Clerk shall for all purposes be deemed an employee of Batavia. The Financial Clerk shall not in any way be construed as an employee of Stafford. Batavia shall pay the Financial Clerk’s salary and make employer’s contributions for retirement, social security, health insurance, worker’s compensation, unemployment and other similar benefits.
6. This Agreement shall become effective immediately and shall expire upon an option for either municipality to terminate this Agreement. Said termination shall be upon written notice to the other municipality.

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7. There are no other agreements or understandings, either oral or written, between the parties affecting this Agreement. No changes, additions, or deletions of any portions of this Agreement shall be valid or binding upon the parties hereto unless the same is approved in writing by the parties.

8. IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

TOWN OF STAFFORD

TOWN OF BATAVIA

Robert S. Clement, Supervisor

Gregory H. Post, Supervisor

State of New York }
County of Genesee }ss.

On this _____ day of _____, 20____, before me, the undersigned, personally appeared Robert S. Clement, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

State of New York }
County of Genesee }ss.

On this _____ day of _____, 2014, before me, the undersigned, personally appeared Gregory H. Post, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

RESOLUTION NO. 227:

Deputy Supervisor Underhill offered the following:

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**APPROVAL OF CHANGE ORDER 2015-01
OPERATION & MAINTENANCE- TOWN OF BATAVIA
LANDFILL SUPERFUND SITE**

WHEREAS, Arcadis is under contract with the Town of Batavia and the City of Batavia to provide Engineering Services at the Town of Batavia Landfill Superfund Site; and

WHEREAS, by agreement the Town of Batavia and City of Batavia are requested to fund the Operation and Maintenance activities at the Site; and

WHEREAS, Arcadis has submitted a letter detailing the scope of work and cost estimate for providing Operation and Maintenance Engineering Services at the Site for 2015; and

WHEREAS, the cost for the service is estimated at sixteen thousand, four hundred, seventy-two dollars (\$16,472.00), seventy-five percent (75%) to be incurred by the City of Batavia and twenty-five percent (25%) to the Town.

NOW, THEREFORE, BE IT

RESOLVED the Town of Batavia hereby authorizes the Supervisor to execute the Change Order Approval Form, a copy of which is annexed hereto and made part of the Town Board Minutes, for the aforementioned Engineering Services to be performed by Arcadis, at an estimated cost of sixteen thousand, four hundred, seventy-two dollars (\$16,472.00).

Second by: Councilman Lang

Ayes: Underhill, Lang, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 228:

Supervisor Post offered the following:

**RESOLUTION GRANTING THE STATE OF NEW YORK AUTHORITY TO PERFORM THE
ADJUSTMENT FOR THE OWNER AND AGREEING TO MAINTAIN FACILITIES
ADJUSTED VIA STATE-LET CONTRACT**

WHEREAS, the New York State Department of Transportation proposes the construction, reconstruction, or improvement of NYS Route 5 over Tonawanda Creek, BIN 1001690, in the Town of Batavia, located in Genesee County, P.I.N. 4BOW.01.101, and

WHEREAS, the State will include as part of the construction, reconstruction, or improvement of the above mentioned project the adjustment to approximately 600 feet of 4 inch diameter HDPE sanitary sewer forcemain, pursuant to Section 10, Subdivision 24, of the State Highway Law, as shown on the contract plans and Utility Special Notes relating to the project and meeting the requirements of the owner, and

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WHEREAS, the service life of the relocated and or replaced utilities has not been extended, and

WHEREAS, the State will provide for the reconstruction of the above mentioned work, as shown on the contract plans and Utility Special Notes and meeting the requirements of the owner, relating to the above mentioned project.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Batavia Water/Wastewater Department approves of the relocation of and adjustment to their sanitary sewer lines and appurtenances and the above mentioned work relating to the project and that the Town of Batavia Water/Wastewater Department will take dedication of and maintain or cause to be maintained the adjusted facilities performed as above stated and as shown on the contract plans, and

BE IT FURTHER RESOLVED that the Town Supervisor has the authority to sign, with the concurrence of the Town Board, any and all documentation that may become necessary as a result of this project as it relates to the Town of Batavia Water/Wastewater Department, and

BE IT FURTHER RESOLVED, that the Town of Batavia Water/Wastewater Department is hereby directed to transmit five (5) certified copies of the foregoing resolution to the New York State Department of Transportation.

Second by: Councilman Lang

Ayes: Post, Zambito, Lang, Underhill, Michalak

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 229:

Councilwoman Michalak offered the following:

PURCHASE OF VPN USER LICENSES

WHEREAS, currently Town employees have the ability to work offsite and get access to the Town server using LogMeIn or the Dell Fire SSL VPN, at no cost; and

WHEREAS, as of January 1, 2015 LogMeIn will be accessing an annual fee at a cost of \$299.00/ year for up to 100 users; and

WHEREAS, currently there are only two licenses for the VPN; and

WHEREAS, the Town can purchase Dell Firewall SSL VPN 5 User License from Hurricane Technologies, Incorporated at a one-time cost of \$215.00. Giving the ability for 7 users to be logged on simultaneously.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase of Dell Firewall SSL

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VPN 5 User License from Hurricane Technologies, Incorporated at a one-time cost of \$215.00; and be it further

RESOLVED, the expenditure will be appropriated from line item A1680.402.

Second by: Councilman Lang

Ayes: Michalak, Lang, Underhill, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 230:

Councilman Zambito offered the following:

PURCHASE OF MICROSOFT OFFICE 2013

WHEREAS, currently the Town is using Microsoft Office 2007 and Microsoft Office Professional 2007; and

WHEREAS, funds were appropriated in the 2014 Town Budget to upgrade to Microsoft Office 2013 and Microsoft Office Professional 2013 and

WHEREAS, the Town received three quotes, with the lowest quote from Amazon.com at a cost of \$210.99 each for Office 2013 and \$269.99 each for Office Professional 2013.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase of 3 licenses of Microsoft Office Professional at a cost of \$269.99 each and 32 licenses of Microsoft Office Home & Business 2013 at a cost of \$210.99 each; and be it further

RESOLVED, the expenditure will be appropriated from line item A1680.200.

Second by: Deputy Supervisor Underhill

Ayes: Zambito, Underhill, Michalak, Lang, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 231:

Councilman Lang offered the following:

AUTHORIZING BUDGET TRANSFERS FOR 2014

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

General Fund:

From	Amount	To
A1990.400 Contingency	\$20,000.00	A1620.200 Building Equipment

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Second by: Councilwoman Michalak
Ayes: Lang, Michalak, Zambito, Underhill, Post
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 232:

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO DESIGN AND CONSTRUCT CANOE LAUNCH ON THE OATKA CREEK
IN THE VILLAGE OF LEROY**

WHEREAS, the Genesee County Soil and Water Conservation received a grant from the Finger Lakes – Lake Ontario Protection Alliance for \$10,370 to design and construct a canoe launch off of Munson Street in the Village of Leroy NY on the Oatka Creek, and

WHEREAS, The Genesee County Soil and Water District entered into an agreement with the Village of Leroy to design and construct the canoe launch, and

WHEREAS, the Village of Leroy requested the assistance of the Town of Batavia Engineering and Highway Department to assist the Village of Leroy in the design and construction of the canoe through their current shared services agreement , and

WHEREAS, the Village of Leroy is able to use the grant to reimburse the Town of Batavia for the labor, equipment and materials used to design and construct the canoe launch and as such, the labor rate will be billed at current hourly rate paid to employees working on the project, equipment will be billed at the New York State Department of Transportation fixed rate and materials will be billed at Town cost, and

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, hereby approves the Town Engineering and Highway Departments to assist the Village of Leroy with the design and construction of a canoe launch in the Village of Leroy and the Town will request reimbursement of their expenses at a cost not to exceed \$10,370.

Second by: Councilman Lang
Ayes: Underhill, Lang, Michalak, Zambito, Post
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 233:

Supervisor Post offered the following:

**RESOLUTION TO AUTHORIZE ADVERTISEMENT
CITY OF BATAVIA CENTENNIAL CELEBRATION**

WHEREAS, the City of Batavia is celebrating its 100th birthday; and

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WHEREAS, to commemorate this event, the Daily News is producing a Centennial Celebration Publication to be delivered to every resident in the City and Town of Batavia; and

WHEREAS, to be a part of this historical event the Town of Batavia has the opportunity to advertise in the Centennial Celebration Publication.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes an advertisement in the Centennial Celebration Publication at a cost of not to exceed One Thousand Eight Hundred Twenty-Five dollars (\$1,825.00), and be it further

RESOLVED, the expenditure will be appropriated from line item A6410.400.

Second by: Deputy Supervisor Underhill

Ayes: Post, Underhill, Michalak, Zambito, Lang

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 234:

Councilwoman Michalak offered the following:

**PURCHASE AND INSTALLATION OF
ACCESS CONTROL AND IP VIDEO SYSTEM
GREAT LAKES BUILDING SYSTEMS**

WHEREAS, the Town of Batavia has reviewed and analyzed it's facilities security needs as it relates to access control and video surveillance, including but not limited to the Town Hall, Highway Garage, Parks, Pump Stations and County Fuel Station; and

WHEREAS, the Town researched providers and systems used by other governmental and not for profit organizations; and

WHEREAS, the Town determined the integrator best suited for this need was Great Lakes Building Systems; and

WHEREAS, the Town developed a scope of work and requested a proposal from Great Lakes Building Systems to complete this initial phase of the Town's security system needs; and

WHEREAS, Great Lakes Building Systems has submitted the attached proposal utilizing State and Federal bid contracts.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase and installation of an Access Control and IP Video System, GSA contract GS-07F-9785H and GSA contract GS-07-F0421K

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from Great Lakes Building Systems, at a cost of thirty-two thousand, one hundred forty three dollars and ninety-five cents (\$32,143.95), a copy of said proposal which is annexed hereto and made part of the Town Board Minutes; and be it further

RESOLVED, the Supervisor is hereby authorized to sign any and all documents that may be necessary for this purchase; and be it further

RESOLVED, the expenditure will be expended from line item A1620.200.

Second by: Councilman Lang

Ayes: Michalak, Lang, Underhill, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 235:

Councilman Zambito offered the following:

BILLBOARD LEASE AGREEMENT

WHEREAS, the Town of Batavia acquired land with the transfer of properties to the Town in the establishment of the Town of Batavia Kiwanis Park; and

WHEREAS, two (2) privately owned billboards are erected on such land for which the Town for many years has been the recipient of proceeds from a Town/Penn Advertisement Lease Agreement; and

WHEREAS, effective April 1, 1997 Penn Advertising Inc. transferred all of its outdoor advertising assets in New York and Pennsylvania to Lamar Advertising; and

WHEREAS, the Advertising Lease Agreement expires December 31, 2014; and

WHEREAS, The Lamar Companies has requested a renewal.

NOW, THEREFORE, BE IT

RESOLVED by the Town Board of the Town of Batavia, New York, that a proposed "Sign Location Lease Agreement", between The Lamar Companies and the Town of Batavia, a copy of which is annexed hereto and made part of the Town Board Minutes, is hereby approved and the Town Supervisor is authorized and directed to sign this Agreement on behalf of the Town of Batavia; and be it further

RESOLVED, said agreement is for a five(5) year period, from January 1, 2015 to December 31, 2019, with an annual payment of one thousand, eight hundred dollars (\$1,800.00) guaranteed or the difference of 20% of net revenue should 20% of net revenue exceed the guarantee; and be it further

RESOLVED, the annual payment is due January 15 of each year with all accounting of revenue being provided to the Town by January 30th of each year. Any additional lease rental due will be paid

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by separate check.

Second by: Deputy Supervisor Underhill
Ayes: Zambito, Underhill, Michalak, Lang, Post
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 236:

Councilman Lang offered the following:

**RESOLUTION TO AUTHORIZE WATER HOOKUP FEE REFUNDS TO ALEXANDER
WATER DISTRICT NO.2 RESIDENTS**

WHEREAS, the Town of Alexander Water District No.2 is completing their water supply and distribution project (“Project”), and

WHEREAS, the Project, as bid, did not allow enough funds to cover the cost of the meter and meter pits for property owners of the Town of Alexander Water District No.2; and

WHEREAS, the Town of Alexander now has determined that enough funds in the Project do exist to purchase the meter and meter pit materials directly from the Town of Batavia versus the property owners purchasing them; and

WHEREAS, several property owners had already purchased these materials from the Town of Batavia, and

WHEREAS, the Town of Alexander has requested that these owners be refunded and requests the Town of Batavia to provide the above materials to property owners at no cost to them, and

WHEREAS, the Town of Alexander will pay the Town of Batavia directly for the meter and meter pit materials needed for the Project.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the refund to the Town of Alexander Water District No. 2 property owners that have already paid for their meter and meter pit materials, and be it further

RESOLVED, the Town of Batavia will procure the meter and meter pit materials needed for the Project to be reimbursed by the Town of Alexander.

Second by: Deputy Supervisor Underhill
Ayes: Lang, Underhill, Michalak, Zambito, Post
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 237:

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Deputy Supervisor Underhill offered the following:

**DEDICATION OF OAKWOOD HILLS PHASE 1 ROAD, WATER AND SEWER
IMPROVEMENTS FROM
ZELIFF PROPERTIES**

WHEREAS, ZELIFF PROPERTIES has substantially completed highway, water and sewer improvements necessary for Phase 1 of the new Oakwood Hills subdivision; and

WHEREAS, ZELIFF PROPERTIES has constructed Phase 1 of the highway, water and sewer improvements as shown as Phase 1 on the drawings labeled Oakwood Hills dated November, 2013 and generally described as follows:

Roadway

Red Oak Lane

(from NYS Rte 5 to a point 1650 ft. north, approx. 1650 lf)

Laurel Oak Way

(from Red Oak Lane/Laurel Oak Way intersection to
Laurel Oak Way/Cherry Bark Lane intersection approx. 2300 lf)

Cherry Bark Lane

(from Cherry Bark Lane/Laurel Oak Way intersection to
Cherry Bark Lane/ Seven Springs Road intersection, approx. 450 lf.)

Total approximate value of roadways \$1,500,000

Water

Water mains and services within the road right of way on the above roadways

Total approximate value of water improvements \$ 315,000

Sewer

Sewer main, laterals and pump station within the road right of way on the above roadways

Total approximate value of sewer improvements \$ 400,000

Total value of all improvements \$2,215,000

WHEREAS, the above noted improvements were constructed under the supervision of the Town of Batavia, and in accordance with the rules, regulations and laws regarding such construction; and

WHEREAS, ZELIFF PROPERTIES has requested the Town of Batavia to accept dedication of said highway, water and sewer improvements; and

WHEREAS, the Highway Superintendent and Town Engineer have made recommendation to the Town Board for acceptance of the highway, water and sewer improvements contingent upon completion of the testing, certification and punch list items as noted in the letter attached; and

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NOW, THEREFORE, BE IT

RESOLVED, the Town of Batavia accepts dedication of said highway, water and sewer improvements for Phase 1 of Oakwood Hills from Zeliff Properties LLC, upon final completion of testing, certifications and punch list items noted in the Town Engineer and Highway Superintendent's recommendation letter, a copy of which is annexed hereto and made part of the Town Board Minutes.

Second by: Councilman Lang

Ayes: Underhill, Lang, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 238:

Supervisor Post offered the following:

**AUTHORIZATION TO EXECUTE
AGREEMENT BETWEEN THE NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLES FOR HEARING ROOM AT TOWN HALL**

WHEREAS, the Town of Batavia and the New York State Department of Motor Vehicles have had an annual agreement since 2003 for the use of a room at the Town Hall for the purpose of Motor Vehicle Hearings; and

WHEREAS, the current agreement expires December 31, 2014; and

WHEREAS, the New York State Department of Motor Vehicles requested to enter into another one year agreement.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the Agreement between the New York State Department of Motor Vehicles and the Town of Batavia, a copy of which is annexed hereto and made part of the Town Board Minutes.

Second by: Councilman Zambito

Ayes: Post, Zambito, Lang, Underhill, Michalak

APPROVED by unanimous vote (5-0)

AGREEMENT

This Agreement is made by and between the New York State Department of Motor Vehicles ("DMV"), located at 6 Empire Plaza, Swan Street Building, Albany, New York 12228, and the Town of Batavia (the "Town"), with offices located at 3833 West Main Street Road, Batavia, NY 14020. DMV and the Town shall collectively be referred to herein as the "Parties".

The purpose of this Agreement is for the rental of the currently used Hearing Room in the Batavia Town

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Hall, located at 3833 West Main Street Road, Batavia, NY, for conducting DMV Safety and Business Hearings.

The Parties agree as follows:

1. **TERM & HOURS OF USE:** This Agreement shall take effect on January 1, 2015 and will remain in effect for a period of one (1) year, ending on December 31, 2015, with the option to amend or extend for additional one (1) year periods. DMV shall use the Hearing Room from no more than three days each month, between the hours of 10:00 A.M. and 3:00 P.M.

2. **FEE:** DMV shall pay the Town the sum of One Thousand, Two Hundred Dollars (\$1,200.00) in advance for the use of said Hearing Room, said sum representing a rental fee of One Hundred Dollars (\$100.00) per month for a period of twelve (12) months. Payment shall be made upon DMV's receipt of the Town's invoice for payment and in accordance with Article XI-A of the NYS Finance Law. Should either party terminate this Agreement, the Town agrees to reimburse DMV One Hundred Dollars (\$100.00) for each full month remaining from the date of termination to the expiration date of this agreement.

3. **CHANGE OF SCHEDULED USE OR LOCATION OF HEARING ROOM:** The Town shall make such Hearing Room available to DMV as scheduled. However, the Parties agree to make reasonable effort to accommodate each other's scheduling needs concerning any change in the location or scheduled use of the Hearing Room.

- a. **NOTICE OF CHANGE:** In the event DMV requires a change of the dates the Hearing Room will be used, or the Town needs to change the Hearing Room another location, the party requesting the change must provide the other party with written notice of such changes no later than 45 days before the next scheduled use date.
- b. The Town agrees that any change in location shall be to similar accommodations located in the same building, where possible, or to a building located in the same town.

Such similar accommodations must (a) be within a reasonable distance from the current site, and (b) provide adequate parking, heating, air conditioning, lighting, rest room, and electrical facilities required for conducting DMV's Safety and Business Hearings.

- c. DMV's use of the Hearing Room less than three days per month in any month shall not constitute a waiver of DMV's right to use the room as scheduled in any subsequent month.

4. **ACCESS TO HEARING ROOM:** The Town shall provide access to the Hearing Room to all individuals required for the conduct of such hearings, including all parties and witnesses.

5. The Town shall provide janitorial and maintenance services to the premises; and DMV will make reasonable effort to keep the Hearing Room clean and orderly.

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6. TERMINATION: Either party may terminate this Agreement upon sixty (60) days' written notice to the other party.

Notice of termination must be directed as follows:

<p>TO DMV: Dale Schifter Solomon Senior Administrative Law Judge 30-56 Whitestone Expressway Flushing, NY 11354</p>	<p>TO TOWN: Gregory H. Post Town Supervisor Town of Batavia 3383 West Main Street Road Batavia, NY 14020</p>
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In Witness Whereof, the Parties hereto have executed this agreement by their duly authorized officer or representative.

Dated: _____

<p>Town of Batavia By, _____ Gregory H. Post Town Supervisor</p>	<p>New York State Department of Motor Vehicles By, _____ Maureen Younkin Director, Procurement Services</p>
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Abstract No. 12-2014: Motion Councilman Lang, second Councilwoman Michalak to authorize the Supervisor to pay the following vouchers:

General	\$129,398.45
Highway	13,109.75
Sewer No. 1	4,866.13
Sewer No. 2	6,354.29
Water	36,760.53
Saile	1,393.20
Creek	100.00
Pratt	59,329.94
Townline	457.16
Total	251,769.45

Check numbers 19504 thru 19586, ACH: \$7,356.25, Online: \$5,489.06

Ayes: Lang, Michalak, Zambito, Underhill, Post

MOTION CARRIED by unanimous vote (5-0)

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Supervisor's Report:

Status Report on expenditures and revenues is available for the Board's review.

GAM- is tomorrow evening at 7:00 P.M. hosted by the Town of Bergen at the Bergen Fire Hall.

Work Session Cancelled- The Work Session's for Wednesday, December 24 and December 31, 2014 are cancelled.

Organizational and Special Meeting- will be January 7, 2015 at 7:00 P.M.

The Supervisor wished everyone in the community a very Merry Christmas and Happy New Year!!

COMMUNICATIONS:

The Town Clerk reported on the following:

November Town Clerk monthly report collected a total of \$2,989.65, remitted \$1,631.17 to the Supervisor for the Local Share.

Tax Warrant- Just received notice that the 2015 Tax Warrant and Bills are ready to be picked up at the County. The tax bills will be mailed out on December 31, 2014.

The Supervisor thanked each Town Board member for their time and sacrifices this year.

The Town Board members thanked the Supervisor for bringing it all together to get things done.

ADJOURNMENT:

Motion Councilman Lang, second Deputy Supervisor Underhill to adjourn the Regular Town Board Meeting at 7:40 P.M.

Ayes: Lang, Underhill, Michalak, Zambito, Post

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk