

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

Town Hall

7:40 P.M.

Daniel Underhill, Deputy Supervisor led the pledge to the flag.

Roll Call

Present: Supervisor Post
Deputy Supervisor Underhill
Councilwoman Michalak

Absent: Councilman Gerace

Others

Present: Town Clerk Morasco

The Supervisor called the meeting to order at 7:40 P.M.

RESOLUTION NO. 125:

Deputy Supervisor Underhill offered the following:

TOWN OF BATAVIA
ELLICOTT STREET ROAD AND TOWNLINE ROAD WATER DISTRICT

SEQR RESOLUTION - NEGATIVE DECLARATION

WHEREAS,

1. In accordance with the New York State Environmental Quality Review regulations (SEQR), the Town Board of the Town of Batavia announced its intent to serve as lead agency on June 20, 2007, to conduct an environmental review of a project to install public water improvements to serve residents along portions of Ellicott Street Road (Town of Batavia) and Townline Road (Towns of Batavia and Stafford). The project is necessary to respond to the immediate needs of residents in the area whose wells have recently been contaminated with animal wastes.
2. The Town Board has determined that, as a portion of the project is within a Genesee County Agricultural District, the proposed action is a Type I action as defined under SEQR.
3. The Town Board, in its capacity of lead agency, has caused to be prepared an environmental assessment of the significance of and potential environmental impact of the action described above.
4. On June 26, 2007, the Town Board notified the Involved Agencies of its intention to act as Lead Agency for this project and circulated the full Environmental Assessment Form.
5. Comments received from Involved Agencies regarding the project have been addressed in the Negative Declaration. The Towns of Batavia and Stafford will

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

continue to work with State, Federal and local agencies until all necessary permits and approvals have been obtained.

6. The Town Board has considered the Environmental Record prepared for this action and the proposed Negative Declaration.

NOW THEREFORE BE IT RESOLVED,

The Town Board of the Town of Batavia declares that it will serve as Lead Agency for the Ellicott Street Road and Townline Road Water District; and,

The Town Board declares that, based on the Environmental Record which has been prepared, the project will result in no major impacts and, therefore, will not cause significant damage to the environment. A Negative Declaration under SEQR is therefore issued for this project.

Second by: Councilwoman Michalak
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 126:

Supervisor Post offered the following:

**RESOLUTION AND ORDER FOR ESTABLISHMENT
OF THE ELLICOTT STREET ROAD AND TOWNLINE ROAD
WATER DISTRICT FOR A PORTION OF THE TOWN OF BATAVIA**

WHEREAS, the Town Board of the Town of Batavia, duly adopted a Resolution directing Gregory H. Post, the Town Supervisor of the Town of Batavia to file a map, plan and report as prepared by the Town's engineer for providing the facilities, improvements or services in a portion of the Town of Batavia, wherein a water district was proposed to be established, as hereinafter described, and

WHEREAS, after the said Town Supervisor duly filed said map, plan and report in the office of the Town Clerk of the Town of Batavia on July 2, 2007, and the said Town Board, did on July 18, 2007, duly adopt an Order reciting a description of the boundaries of the proposed district, the maximum amount proposed to be expended for the improvement, the proposed method of financing to be employed, the fact that a plan, map and report describing the same are on file in the Town Clerk's Office for public inspection and specifying that said Town Board shall meet at the Town Hall on the 1st day of August, 2007, for the purpose of conducting a public hearing on such proposal to establish the water district with the specified improvements and to hear all persons interested in the subject thereof concerning the same, and

WHEREAS, a "Petition to Request Water District " was filed in the Batavia Town Clerk's Office on July 16, 2007, which was signed by a number of owners within said district, which was greater than the percentage required by law, and

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

WHEREAS, the improvements proposed are as follows: a project to provide a safe and reliable potable water supply and fire protection to certain residences in the proposed Ellicott Street Road and Townline Road Water District. The overall project will consist of the construction and installation of approximately 17,000 linear feet of twelve (12) inch water main along the portion of Ellicott Street Road starting at the intersection of Shepard Road and Ellicott Street Road to connect with an existing consolidated water district, and then running southeasterly along Ellicott Street Road to the intersection of Townline Road, and then running northerly along the Townline Road to connect to the existing consolidated water district on said Road; together with all related right-of-way costs, site work and other ancillary work, including hydrants, valves, apparatus, and other improvements and costs incidental thereto (referred to herein as “water improvement”), and

WHEREAS, copies of the aforesaid said Order for a Public Hearing were duly published and posted according to law, and said Town Board did, at the time and place specified in said Order, duly meet and consider such proposal and heard all persons interested in the subject thereof, who appeared at such time and place, concerning the same, and

WHEREAS, the evidence offered at such hearing requires that the Town Board make the determinations hereinafter made;

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Batavia, in the County of Genesee, that it be and hereby is determined as follows:

(1) The aforesaid “Petition to Request Water District” was signed, and acknowledged or proved or authenticated, as required by law and is otherwise sufficient.

(2) The Notice of Hearing was published and posted as required by law and is otherwise sufficient.

(3) That all the property and property owners, within the proposed water district are benefited thereby.

(4) That all of the property and property owners benefited are included within the proposed water district.

(5) It is in the public interest to establish the proposed water district as hereinafter described; and be it

(6)

FURTHER RESOLVED, that the Town Board does hereby approve the establishment of a Water District as hereinafter described to be known as the Town of Batavia Ellicott Street Road and Townline Road Water District. Said Water District being described on **EXHIBIT A**, attached hereto and made a part hereof; and be it

FURTHER RESOLVED, that the maximum amount proposed to be expended for such water improvement is \$629,200.00, which is planned to be financed by the issuance of serial bonds in an amount not to exceed \$219,000.00, offset by any funds to be received from the United States of America, and/or the State of New York, and/or the County of Genesee, and/or local grants; including, but not limited to, a USDA Rural

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

Development Agency grant of \$260,200.00, as well as a grant of \$150,000.00 from the Emergency Community Water Assistance Grant Program, and be it

FURTHER RESOLVED that the proposed debt of \$219,000.00 from a loan from the USDA Rural Development Agency shall be paid over a 38 year term at 4.25% interest, thereby creating an annual debt service (assuming 58 units) of \$202.00 per typical property user in the proposed district, which is a single family home, and be it

FURTHER RESOLVED that a typical household uses 63,000 gallons of water per year and the estimated cost of the water to be purchased by the water district's users is a total of \$4.11 per 1,000 gallons used, thereby the average household can expect to additionally pay approximately \$259.00 per year for water purchase above and beyond the debt service, and be it

FURTHER RESOLVED that based upon the foregoing estimates, the total annual cost of the typical property in the proposed district will be \$461.00 per year, and be it

FURTHER RESOLVED that payment of the debt service will be made by levy and collection of special assessments from the several lots and parcels of lands within the water district, which the Town Board shall determine and specify to be specially benefited thereby, so much upon and from each as shall be in just proportion of 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, and be it

FURTHER RESOLVED that each property will also have to pay for service from their home to the road right-of-way, incurring an estimated one time cost of approximately \$300.00 for a meter, plus approximately \$8.00-\$12.00 per linear feet of pipe, plus potential well abandonment or separation charges, as well as any internal plumbing charges, and be it

FURTHER RESOLVED that this Resolution and Order is not subject to a permissive referendum; and be it

FURTHER RESOLVED that within ten (10) days after the adoption hereof, the Town Clerk shall post and publish as provided by law a Notice setting forth the date of the adoption of this Resolution and Order and containing an abstract of this Resolution and Order concisely stating the purpose and effect hereof; and be it

FURTHER RESOLVED, that this Resolution and Order is not subject to approval by the Office of the State Comptroller, Department of Audit and Control, and be it

FURTHER RESOLVED, that the Town Clerk be and she hereby is authorized and directed to record a certified copy of this Resolution and Order in the Office of the

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

Genesee County Clerk, and to file a certified copy of this Resolution and Order in the Office of the State Department of Audit and Control, within ten (10) days hereof.

Second by: Deputy Supervisor Underhill
APPROVED by unanimous vote (3-0)

NOTICE OF ADOPTION OF RESOLUTION
FOR THE ELLICOTT STREET ROAD AND TOWNLINE ROAD
WATER DISTRICT FOR A PORTION OF THE TOWN OF BATAVIA

NOTICE IS HEREBY GIVEN that at a regular meeting held on the 1st day of August, 2007, the Town Board of the Town of Batavia duly adopted a Resolution, an abstract of which follows, which Resolution is not subject to permissive referendum, and is not subject to approval from the Office of the New York State Comptroller.

Said Resolution establishes a Water District within the Town of Batavia known as the Ellicott Street Road and Townline Road Water District, and sets forth the boundaries therefor, makes certain findings and determinations relative to the establishment of said district, describes the improvements to be constructed within the district and the method of financing thereof.

Dated: August 1, 2007

TERESSA M. MORASCO, Town Clerk
Town of Batavia

TOWN OF BATAVIA
ELLICOTT STREET ROAD AND TOWNLINE ROAD WATER DISTRICT

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

Beginning at the intersection of the centerlines of Batavia-Bethany Townline Road (66 feet wide right-of-way) and Bethany Center Road (66 feet wide right-of-way), and the Town lines of Batavia, Stafford, and Bethany; thence,

1. Westerly, along the Batavia and Bethany Town lines, a distance of 500 feet, more or less, to a point on the centerline of Batavia-Bethany Townline Road; thence,
2. Northerly, along a line 500 feet westerly of and parallel to the centerline of Bethany Center Road, through the lands of tax account number 20-1-32.113, a distance of 1184 feet, more or less, to a point; thence,
3. Northwesterly, along a line 500 feet southwesterly of and parallel to Ellicott Street Road (66 feet wide right-of-way), through the lands of 20-1-32.113, a distance of 689 feet, more or less, to a point on the southeasterly line of tax account number 20-1-36.1; thence,

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

4. Southwesterly, along the southeasterly line of tax account number 20-1-36.1, a distance of 617 feet, more or less, to the southwesterly corner of said lot; thence,
5. Northerly, along the westerly line of the aforementioned tax account number, a distance of 836 feet, more or less, to a point; thence,
6. Northwesterly, along a line 500 feet southwesterly of and parallel to Ellicott Street Road, through the lands of tax account number 20-1-44.111, a distance of 617 feet, more or less, to the southeasterly line of tax account number 20-1-44.2; thence,
7. Southwesterly, along the southeasterly line of tax account number 20-1-44.2, a distance of 64 feet, more or less, to the southeasterly corner of said tax account number; thence,
8. Westerly, along the southerly line of the aforementioned tax account number, a distance of 714 feet, more or less, to the southwesterly corner of said tax account number; thence,
9. Southerly, along the easterly line of tax account number 20-1-55.1, a distance of 1605 feet, more or less, to the southeasterly corner of said tax account number; thence,
10. Westerly, along the southerly lines of tax account numbers 20-1-55.1 and 20-1-88, a distance of 1264 feet, more or less, to a southwesterly corner of tax account number 20-1-88; thence,
11. Northerly, along a westerly line of tax account number 20-1-88, a distance of 2949 feet, more or less, to a northwesterly corner of tax account number 20-1-88 and a northeasterly corner of the Town of Batavia Existing Water District No. 3; thence,
12. Westerly, along the Town of Batavia Existing Water District No. 3 line, a distance of 812 feet, more or less, to a corner of the Town of Batavia Existing Water District No. 3; thence,
13. Northerly, along the Town of Batavia Existing Water District No. 3 line, a distance of 501 feet, more or less, through the lands of tax account number 20-1-88, to a corner of the Town of Batavia Existing Water District No. 3; thence,
14. Westerly, along the Town of Batavia Existing Water District No. 3 line, a distance of 205 feet, more or less, to a corner of the Town of Batavia Existing Water District No. 3; thence,
15. Northerly, along the Town of Batavia Existing Water District No. 3 line, a distance of 529 feet, more or less, to a corner of the Town of Batavia Existing Water District No. 3; thence,
16. Easterly, along the Town of Batavia Existing Water District No. 3 line, a distance of 122 feet, more or less, to a corner of the Town of Batavia Existing Water District No. 3; thence,

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

17. Northeasterly, along the Town of Batavia Existing Water District No. 3 line, a distance of 379 feet, more or less, to a corner of the Town of Batavia Existing Water District No. 3 on the southwesterly line of tax account number 20-1-67; thence,
18. Northwesterly, along the Town of Batavia Existing Water District No. 3 line and the southwesterly line of tax account number 20-1-67, a distance of 499 feet, more or less, to the northwesterly corner of said tax account number; thence,
19. Northeasterly, along the Town of Batavia Existing Water District No. 3 line and the northwesterly line of tax account number 20-1-67, a distance of 25 feet, more or less, to the southeasterly corner of tax account number 20-1-103; thence,
20. Northwesterly, along the Town of Batavia Existing Water District No. 3 line and the southerly line of tax account number 20-1-103, 342 feet, more or less, to a corner of Town of Batavia Existing Water District No. 3 line on the centerline of Shepard Road (49.5 feet wide right-of-way); thence,
21. Northerly, along the Town of Batavia Existing Water District No. 3 line and the westerly lines of tax account numbers 20-1-1.123, 20-1-104.1, 20-1-108, 13-1-87.12, 13-1-105.1, 13-1-142, and 13-1-106.1 a distance of 4962 feet, more or less, to the northwesterly corner of tax account number 13-1-106.1. Said point being on the City of Batavia line and a southwesterly corner of the Town of Batavia Existing Water District No. 4; thence,
22. Easterly, along the southerly line of the Town of Batavia Existing Water District No. 4 and the northerly lines of tax account numbers 13-1-106.1 and 13-1-105.214, a distance of 2256 feet, more or less, to a northeasterly corner of tax account number 13-1-105.214; thence,
23. Southerly, along the southerly line Town of Batavia Existing Water District No. 4 and the easterly line of tax account number 13-1-105.214, a distance of 22 feet, more or less, to a northerly corner of tax account number 13-1-105.214; thence,
24. Northeasterly, along the southerly line of the Town of Batavia Existing Water District No. 4 and the northerly lines of tax account numbers 13-1-105.214, 13-1-159, and 13-1-158, a distance of 1851 feet, more or less, to the northeasterly corner of tax account number 13-1-158; thence,
25. Southerly, along the southerly line of the Town of Batavia Existing Water District No. 4 and the easterly line of tax account number 13-1-158, a distance of 104 feet, more or less, to the southeasterly corner of said tax account number; thence,
26. Northeasterly, along the northerly line of tax account number 13-1-86, a distance of 447 feet, more or less, to a northeasterly corner of said tax account number; thence,
27. Southerly, along the easterly line of tax account number 13-1-86, a distance of 780 feet, more or less, to the northwesterly corner of tax account number 13-1-82.12; thence,
28. Easterly, along a northerly line of tax account number 13-1-82.12, a distance of 583 feet, more or less, to a northerly corner of said tax account number; thence,

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

- 29. Northerly, along a westerly line of tax account number 13-1-82.12, a distance of 195 feet, more or less, to a northerly corner of said tax account number; thence,
- 30. Northeasterly, along a northerly line of tax account number 13-1-82.12, a distance of 65 feet, more or less, to a northerly corner of said tax account number; thence,
- 31. Southeasterly, along the an easterly line of tax account number 13-1-82.12, a distance of 90 feet, more or less, to a northerly corner of said tax account number; thence,
- 32. Easterly, along a northerly line of tax account number 13-1-82.12, a distance of 215 feet, more or less, to the Batavia and Stafford Town lines; thence,
- 33. Southerly, along the Batavia and Stafford town lines and the centerline of Batavia-Stafford Townline Road (66 feet wide right-of-way), a distance of 10,373 feet, more or less, to the point of beginning.

All as shown on a map prepared by Clark Patterson Associates, "Ellicott Street Road and Townline Road Water District – Proposed Water District Map", Drawing Number B-01, dated April 09, 2007.

Town of Batavia Ellicott Street Road and Townline Road Water District, as described above contains approximately 1,016.3 acres of land.

RESOLUTION NO. 127:

Councilwoman Michalak offered the following:

A meeting of the Town Board of the Town of Batavia, in the County of Genesee, New York, was held at the Town Hall, in said Town, on August 1, 2007.

PRESENT:

Hon. Gregory H. Post, Supervisor
Hon. Daniel Underhill, Deputy Supervisor
Hon. Patti Michalak, Councilwoman

-----X

In the Matter

of the

Construction of Sewer Improvements in a Benefited Area known as the East Saile Drive Sewer Improvement Area, in the Town of Batavia, County of Genesee,

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

New York, pursuant to Article 12-C of the Town Law.

-----X

**RESOLUTION APPROVING THE CONSTRUCTION
OF SEWER IMPROVEMENTS WITHIN AN AREA
OF THE TOWN OUTSIDE OF ANY VILLAGES, ON
BEHALF OF AN AREA WHICH HAS BEEN
DETERMINED TO BE THE BENEFITED AREA
KNOWN AS THE EAST SAILE DRIVE SEWER
IMPROVEMENT AREA, AND MAKING OTHER
DETERMINATIONS IN CONNECTION
THEREWITH.**

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-C, has caused Clark Patterson Associates, competent engineers duly licensed by the State of New York, to prepare a map, plan and report for the East Saile Drive Sewer Improvement Area (the "Improvement Area"), in the Town of Batavia, consisting of the construction and installation of approximately 2,500 linear feet of 12-inch gravity sewer main and 2,000 feet of 2-inch low pressure force main, as well as 2,000 feet of 6-inch force main capped at both ends to allow for future expansion and new precast concrete manholes. The 12-inch gravity main is designed to be able to accept additional flows from assumed future development, as well as current flows in the Sewer Improvement Benefit Area, including connections and other improvements and costs incidental thereto, land or rights in land, equipment, machinery, furnishings appurtenances and related site work, (the "Sewer Improvement"), all within an area of Town outside of any villages, which area will be determined to be the benefited area, and which map, plan and report has been duly filed in the office of the Town Clerk of the Town and is available for public inspection; and

WHEREAS, the proposed Sewer Improvement will benefit the entire area, which area is outside of the City of Batavia and is described as follows:

See **EXHIBIT A** attached hereto.

WHEREAS, pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such map, plan and report for the establishment of the Improvement Area and the construction and installation of improvements therein and has estimated the total cost thereof to be \$900,000, which is planned to be financed by the application of up front contributions and grant contributions as well as any federal, state, county and/or local grant funds received.

WHEREAS, the Town Board has given due consideration to the impact that the establishment of the Improvement Area may have on the environment and on the

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

basis of such consideration, the Town Board found that no substantial adverse environmental impact will be caused thereby; and

WHEREAS, the Town Board and the Town have 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, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, which has been filed in the office of the Town Clerk; and

WHEREAS, the Town Board issued an Order at its July 18, 2007 meeting calling for a public hearing to be held at the Town Hall, Batavia, New York, on August 1, 2007 at 7:10 o'clock P.M. (prevailing Time), to consider the establishment of the Improvement Area and the construction and installation of improvements therein, and to hear all persons interested in the subject thereof, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication, post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law and to mail to each owner of the taxable real property in the Improvement Area, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing; and

WHEREAS, certified copies of such order were duly published and posted pursuant to the provisions of Article 12-C of the Town Law, and the public hearing duly held at the time and place stated in the notices.

NOW THEREFORE BE IT RESOLVED AND DETERMINED BY THE TOWN BOARD OF THE TOWN OF BATAVIA, as follows:

DETERMINED, that it is in the public interest to establish the Improvement Area as hereinabove described and referred to at the estimated maximum cost of \$900,000, and it is hereby

DETERMINED, that the parcels and lots of the Improvement Area shall be benefited by said establishment of the Improvement Area; and it is hereby

DETERMINED, that all parcels and lots benefited by the improvements are included in the Improvement Area; and it is hereby

DETERMINED, that the Town does not anticipate such improvement will be financed by the issuance of bonds, notes, certificates or other evidences of indebtedness of the Town. Therefore, permission of the State Comptroller is not required; and it is hereby

ORDERED, that the Improvement Area shall be established and that the Engineer shall prepare plans and specifications and make a careful estimate of the

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

expense for said establishment of the Improvement Area, and with the assistance of the Town Attorney, prepare a proposed contract for the execution of the work, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible, and it is hereby

FURTHER ORDERED, that the expense of said establishment of the Improvement Area shall be financed by the application of up front contributions and grant contributions as well as any federal, state, county and/or local grant funds received; and it is hereby

FURTHER ORDERED, that this resolution shall take effect immediately; and it is hereby

FURTHER ORDERED, that the Town Clerk shall cause a certified copy of this Resolution to be duly recorded in the office of the clerk of Genesee County within ten (10) days after the adoption of this Resolution.

DATED: August 1, 2007

TOWN BOARD OF THE
TOWN OF BATAVIA

The adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

AYES: Councilwoman Michalak

Supervisor Post

Deputy Supervisor Underhill

NOES:

ABSENT: Councilman Gerace

The resolution was declared adopted.

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

TOWN OF BATAVIA
EAST SAILE DRIVE SEWER BENEFIT AREA

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 on the southerly right-of-way line of West Saile Drive (99 foot wide right-of-way) and the northeasterly corner of tax account number, 4-1-25.121; thence,

34. Easterly, along the northerly right of way line of West Saile Drive, a distance of 54 feet, more or less, to the northwesterly corner of tax account number 4-1-25.122; thence,
35. Southerly, along the westerly property line of tax account 4-1-25.122, a distance of 591 feet, more or less, to the southwest corner of tax account number 4-1-25.122; thence,
36. Easterly, along the Southerly property line of tax account number 4-1-25.122, a distance of 527 feet, more or less, to the centerline of State Street; thence,
37. Northerly, along the centerline of State Street, a distance of 576 feet, more or less, to the Southerly right of way of East Saile Drive (99 foot wide right-of-way); thence,
38. Southerly, along the easterly right-of way line of State Street , a distance of 112 feet, more or less, to the northwesterly corner at tax account number, 5-1-101; thence,
39. Easterly, along the northerly property line of said tax account number, a distance of 156 feet, more or less, to the northeasterly corner of said tax account number; thence,
40. Southerly, along the easterly property lines of tax account numbers, 5-1-101, 5-1-100, and 5-1-99, a distance of 312 feet, more or less, to a southeasterly corner of tax account number, 5-1-99; thence,
41. Easterly, along a northerly property line of said tax account number 5-1-98, a distance of 192 feet, more or less, to the northeasterly corner of said tax account number; thence,
42. Southerly, along the easterly property line of said tax account number, a distance of 195 feet, more or less, to a southwest corner of said tax account number; thence,
43. Easterly, along a northerly property line of tax account number 5-1-140, a distance of 107 feet, more or less, to the northeasterly corner of said tax account number; thence,
44. Southerly, along the easterly property line of tax account number, 5-1-140, a distance of 160 feet, more or less, to the southeasterly corner of said tax account number; thence,
45. Easterly, along the northerly property line of tax account number 5-1-96, a distance of 106 feet, more or less, to a northeasterly corner of said tax account number; thence,
46. Southerly, along the easterly property line of said tax account number, a distance of 389 feet, more or less, to the southeasterly corner of said tax account number; thence,
47. Westerly, along the southerly property line of said tax account number, a distance of 359 feet, more or less, to the northeasterly corner of tax account number 5-1-95; thence,
48. Southerly, along the easterly property line of said tax account number a distance of 112 feet, more or less, to an southeasterly corner of said tax account number; thence,

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

49. Easterly, along northerly property line of tax account number 5-1-102.114, a distance of 100 feet, more or less, to a northwesterly corner of said tax account number; thence,
50. Southerly, along the easterly property lines of tax account numbers 5-1-102.114 and 5-1-94 a distance of 440 feet, more or less, to the southwesterly corner of said tax account number; thence,
51. Easterly, along a southerly property line of tax account number 5-1-102.114, a distance of 1,331 feet, more or less, to a southeasterly corner of said tax account number; thence,
52. Northerly, along the easterly property lines of tax account numbers 5-1-102.114 and 5-1-140, a distance of 724 feet, more or less, to an angle point along the northeasterly line of tax account number 5-1-140; thence,
53. Northeasterly, along the easterly property lines of tax account numbers 5-1-140, 5-1-103.2, and 5-1-103.12 a distance of 798 feet, more or less, to the southwesterly corner of tax account number 5-1-104.12; thence,
54. Easterly, along a southerly property lines of tax account number 5-1-104.12 and 5-1-104.2, a distance of 1,013 feet, more or less, to a southeasterly corner of tax account number 5-1-104.2; thence,
55. Northerly, along the easterly property line of tax account number 5-1-104.2, a distance of 383 feet, more or less, to the center of East Saile Drive (50 feet right-of-way); thence,
56. Easterly, along the centerline of East Saile Drive, along a line 25 feet north and parallel to the southerly right-of-way line of East Saile Drive , a distance of 3,165 feet, more or less, to the intersection of East Saile Drive (right-of-way 66 feet)and Bank Street; thence,
57. Northerly, along the centerline of Bank Street, a distance of 1,765 feet, more or less, to a point along the said road; thence,
58. Northwesterly, through the road a distance of 32 feet, more or less, perpendicular to the southeasterly corner of tax account number, 5-1-134; thence,
59. Northerly, along the easterly property line of said tax account number, a distance of 85 feet, more or less, to a point along the said tax account number; thence,
60. Westerly, through the northerly property lines of tax account numbers 5-1-134, 5-1-9.112, 5-1-8.2, 5-1-5.22, and 5-1-4.12, a distance of 5,634 feet, more or less, to the easterly line of tax account number 5-1-107.1; thence,
61. Northerly, along the easterly property line of tax account number 5-1-107.1, a distance of 384 feet, more or less, to the northeasterly corner of said tax account number; thence,
62. Westerly, along the northerly property line of said tax account number, a distance of 1,314 feet, more or less, to the centerline of State Street; thence,
63. Southerly, along the centerline of State Street, a distance of 375 feet, more or less, to a point along the said road; thence,
64. Westerly, along the northerly property line of tax account number 4-1-21.2, a distance of 2,661 feet, more or less, to the northwesterly corner of said tax account number; thence,
65. Southerly, along the westerly property line of said tax account number, a distance of 906 feet, more or less, to the southwesterly corner of said tax account number; thence,
66. Easterly, along the Southerly property line of said tax account number, a distance of 650 feet, more or less, to the northwesterly corner of tax account number 4-1-47; thence,

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

67. Southerly, along the westerly property line of said tax account number, a distance of 852 feet, more or less, to the southwesterly corner of said tax account number; thence,
68. Westerly, along the northerly right of way line of West Saile Drive, a distance of 100 feet, more or less, to the Southeasterly corner of tax account number 4-1-22.15; thence,
69. Northerly, along the Westerly line of said tax account number, a distance of 246 feet, more or less, to the Northwesterly corner of said tax account number; thence,
70. Easterly, along the southerly property line of tax account numbers 4-1-47, 4-1-45.24-1-42.1, a distance of 1228 feet, more or less, to the a southeastern corner of tax account number 4-1-42.1; thence,
71. Northerly, along an easterly property line of said tax account number, a distance of 21 feet, more or less, to a southeasterly corner of said tax account number; thence,
72. Easterly, along the southerly property line of said tax account number, a distance of 99 feet, more or less, to the southeasterly corner of said tax account number; thence,
73. Southerly, along the Westerly property line of tax account number 4-1-43.1, a distance of 529 feet, more or less, to the point of beginning

Town of Batavia East Saile Drive Sewer Benefit Area, as described above contains approximately 443.2 acres of land.

RESOLUTION NO. 128:

Deputy Supervisor Underhill offered the following:

A meeting of the Town Board of the Town of Batavia, in the County of Genesee, New York, was held at the Town Hall, in said Town, on August 1, 2007.

PRESENT:

Hon. Gregory H. Post, Supervisor
Hon. Daniel Underhill, Deputy Supervisor
Hon. Patti Michalak, Councilwoman

-----X

In the Matter

of the

Construction of Sewer Improvements in a Benefited Area known as the West Saile Drive Sewer Improvement Area, in the Town of Batavia, County of Genesee, New York, pursuant to Article 12-C of the Town Law.

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

-----X

**RESOLUTION APPROVING THE CONSTRUCTION
OF SEWER IMPROVEMENTS WITHIN AN AREA
OF THE TOWN OUTSIDE OF ANY VILLAGES, ON
BEHALF OF AN AREA WHICH HAS BEEN
DETERMINED TO BE THE BENEFITED AREA
KNOWN AS THE WEST SAILE DRIVE SEWER
IMPROVEMENT AREA, AND MAKING OTHER
DETERMINATIONS IN CONNECTION
THEREWITH.**

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-C, has caused Clark Patterson Associates, competent engineers duly licensed by the State of New York, to prepare a map, plan and report for the West Saile Drive Sewer Improvement Area (the "Improvement Area"), in the Town of Batavia, consisting of the construction and installation of approximately 2,100 linear feet of 12-inch gravity sewer main and 400 feet of 2-inch low pressure force main and new precast concrete manholes. The main is designed to be able to accept additional flows from assumed future development as well as current flows in the Sewer Improvement Benefit Area, including connections and other improvements and costs incidental thereto, land or rights in land, equipment, machinery, furnishings appurtenances and related site work, (the "Sewer Improvement"), all within an area of Town outside of any villages, which area will be determined to be the benefited area, and which map, plan and report has been duly filed in the office of the Town Clerk of the Town and is available for public inspection; and

WHEREAS, the proposed Sewer Improvement will benefit the entire area, which area is outside the City of Batavia and is described as follows:

See **EXHIBIT A** attached hereto.

WHEREAS, pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such map, plan and report for the establishment of the Improvement Area and the construction and installation of improvements therein and has estimated the total cost thereof to be \$400,000, and the issuance of serial bonds in an amount not to exceed \$400,000 offset by any federal, state, county and/or local grant funds received, with the balance of the costs of said serial bonds to be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the Improvement Area, and the Town Board shall apportion and assess upon and collect from the several lots and parcels of land so deemed benefited, so much upon and from each as shall be in just proportion to the amount of benefit which shall be conferred upon the same; and

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

WHEREAS, the Town Board has given due consideration to the impact that the establishment of the Improvement Area may have on the environment and on the basis of such consideration, the Town Board found that no substantial adverse environmental impact will be caused thereby; and

WHEREAS, the Town Board and the Town have 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, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, which has been filed in the office of the Town Clerk; and

WHEREAS, the Town Board issued an Order at its July 18, 2007 meeting calling for a public hearing to be held at the Town Hall, Batavia, New York, on August 1, 2007 at 7:20 o'clock P.M. (prevailing Time), to consider the establishment of the Improvement Area and the construction and installation of improvements therein, and to hear all persons interested in the subject thereof, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication, post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law and to mail to each owner of the taxable real property in the Improvement Area, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing; and

WHEREAS, certified copies of such order were duly published and posted pursuant to the provisions of Article 12-C of the Town Law, and the public hearing duly held at the time and place stated in the notices.

NOW THEREFORE BE IT RESOLVED AND DETERMINED BY THE TOWN BOARD OF THE TOWN OF BATAVIA, as follows:

DETERMINED, that it is in the public interest to establish the Improvement Area as hereinabove described and referred to at the estimated maximum cost of \$400,000, and it is hereby

DETERMINED, that the parcels and lots of the Improvement Area shall be benefited by said establishment of the Improvement Area; and it is hereby

DETERMINED, that all parcels and lots benefited by the improvements are included in the Improvement Area; and it is hereby

DETERMINED, that the estimated expense to the Town of such improvement will not exceed one-tenth of one per centum of the full valuation of the taxable real property in the area of the Town outside of the City. Therefore, permission of the State Comptroller is not required, and it is hereby

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

ORDERED, that the Improvement Area shall be established and that the Engineer shall prepare plans and specifications and make a careful estimate of the expense for said establishment of the Improvement Area, and with the assistance of the Town Attorney, prepare a proposed contract for the execution of the work, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible, and it is hereby

FURTHER ORDERED, that the expense of said establishment of the Improvement Area shall be financed by the issuance of serial bonds of the Town in an amount not to exceed \$400,000 offset by any federal, state, county and/or local grant funds received, with the cost of said serial bonds to be paid by a benefit assessment on the various lots and parcels of the Improvement Area in the manner provided by law, and it is hereby

FURTHER ORDERED, that the Town Board may establish sewer rents as provided in paragraph (l) of subdivision one of Town Law Section 198.

FURTHER ORDERED, that this resolution shall take effect immediately; and it is hereby

FURTHER ORDERED, that the Town Clerk shall cause a certified copy of this Resolution to be duly recorded in the office of the clerk of Genesee County within ten (10) days after the adoption of this Resolution.

DATED: August 1, 2007

TOWN BOARD OF THE
TOWN OF BATAVIA

The adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

AYES: Deputy Supervisor Underhill
Councilwoman Michalak
Supervisor Post

NOES:

ABSENT: Councilman Gerace

The resolution was declared adopted.

TOWN OF BATAVIA
WEST SAILE DRIVE SEWER IMPROVEMENT BENEFIT AREA

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

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 on the southerly right-of-way line of West Saile Drive (99 wide right-of-way) and the northeasterly corner of tax account number, 4-1-25.121; thence,

74. Westerly, along the southerly right-of-way line of West Saile Drive (99 wide right-of-way) a distance of 52 feet, more or less, to a point; thence,
75. Northerly, through the lands of West Saile Drive, continuing along the easterly property line of tax account number, 4-1-22.21, a distance of 530 feet, more or less, to the northeasterly corner of said tax account number; thence,
76. Westerly, along the northerly property line of said tax account number, a distance of 100 feet, more or less, to a point; thence,
77. Southerly, along the property line of said tax account number, a distance of 20 feet, more or less, to a point; thence,
78. Southwesterly, through the lands of tax account numbers, 4-1-22.21, 4-1-45.1, 4-1-22.15, a distance of 1,228 feet, more or less, to the northwesterly property corner of tax account number 4-1-22.15, thence,
79. Southerly, along the westerly property line of tax account number 4-1-22.15, a distance of 246 feet, more or less, to the northerly right-of-way of West Saile Drive; thence,
80. Westerly, along the northerly right-of-way of West Saile Drive, a distance of 100 feet, more or less, to the southeasterly property corner of tax account number 4-1-22.12; thence,
81. Northerly, along the easterly property line of tax account number 4-1-22.12, a distance of 810 feet, more or less, to the northeasterly corner, thereof; thence,
82. Westerly, along the northerly property line of tax account number 4-1-44, a distance of 888 feet, more or less, to the northwesterly corner of said tax account number; thence,
83. Southerly, along the westerly property line of said tax account number, a distance of 276 feet, more or less, to the southwesterly corner of said tax account number; thence,
84. Westerly, along the northerly property line of tax account number 4-1-23.1, a distance of 823 feet, more or less, to the centerline of Oak Orchard Road, N.Y.S. Route 98, (66.0 feet wide right-of-way); thence,
85. Southerly, along the centerline of said road, a distance of 2,345 feet, more or less, to a point along the said road; thence,
86. Easterly, along the southerly property line of tax account number 4-1-26.2, a distance of 1,020 feet, more or less, to the northeasterly corner of said tax account number; thence,
87. Northerly, along the easterly property line of said tax account number, a distance of 407 feet, more or less, to the northeasterly corner of said tax account number; thence,
88. Easterly, along the southerly property line of tax account number 4-1-24, a distance of 52 feet, more or less, to the southeasterly corner of said tax account number; thence,
89. Northerly, along the easterly property line of said tax account number, a distance of 714 feet, more or less, to the southerly line tax account number 4-1-48; thence,

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

90. Easterly, along the southerly property line of tax account numbers 4-1-48 and 4-1-25.115, a distance of 629 feet, more or less, to the southeasterly corner of said tax account number 4-1-25.115; thence,
91. Northerly, along the westerly property line of tax account number 4-1-25.116, a distance of 609 feet, more or less, to the northwesterly corner of said tax account number; thence,
92. Easterly, along the southerly right-of-way line of West Saile Drive, a distance of 287 feet, more or less, to the northeasterly corner of said tax account number; thence,
93. Southerly, along the easterly property line of said tax account number, a distance of 613 feet, more or less, to the southeasterly corner of said tax account number; thence,
94. Easterly, through the lands of tax account number 4-1-76.66, continuing along the southerly lines of tax account numbers 4-1-46, 4-1-25.2, 4-1-25.1, and 4-1-25.122 a distance of 1,417 feet, more or less, to the centerline of State Street; thence,
95. Northerly, along the centerline of said road, a distance of 592 feet, more or less, to the point of beginning.

Town of Batavia West Saile Drive Sewer Improvement Benefit Area as described above contains approximately 110.6 acres of land.

RESOLUTION NO. 129:

Supervisor Post offered the following:

A BOND RESOLUTION, DATED AUGUST 1, 2007, OF THE TOWN BOARD OF THE TOWN OF BATAVIA, GENESEE COUNTY, NEW YORK, AUTHORIZING THE CONSTRUCTION OF IMPROVEMENTS WITHIN THE WEST SAILE DRIVE SEWER IMPROVEMENT AREA IN A MAXIMUM AMOUNT NOT TO EXCEED \$400,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$400,000 OF SUCH TOWN, OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL GRANT FUNDS RECEIVED FOR SAID OBJECT OR PURPOSE OR REDEMPTION OF THE TOWN'S OBLIGATIONS ISSUED THEREFOR, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE 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"), has determined to proceed with the establishment of the West Saile Drive Sewer Improvement Area (the "Improvement Area"); and

WHEREAS, the Town Board desires to undertake the construction of Sewer Improvements in the Improvement Area in the Town of Batavia, consisting of the

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

construction and installation of approximately 2,100 linear feet of 12-inch gravity sewer main and 400 feet of 2-inch low pressure force main and new precast concrete manholes. The main is designed to be able to accept additional flows from assumed future development as well as current flows in the Sewer Improvement Benefit Area, including connections and other improvements and costs incidental thereto, land or rights in land, equipment, machinery, furnishings appurtenances and related site work and other ancillary work, including apparatus, preliminary costs and other improvements and costs incidental thereto (the "Sewer Improvement"); and

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of the Sewer Improvement; and

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 2. The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is the construction of improvements of the West Saile Drive Sewer Improvement Area (the "Improvement Area") in the Town of Batavia. The maximum cost of said purpose will not exceed \$400,000.

SECTION 3. The Town Board plans to finance the maximum estimated cost of said purpose by the issuance of serial bonds in an amount not to exceed \$400,000 of said Town, to be offset by any federal, state, county and/or local grant funds received, hereby authorized to be issued therefore pursuant to the Local Finance Law. The cost of such improvement is to be paid by said grants and the issuance of serial bonds, and the cost of such serial bonds to be paid by a benefit assessment on the various lot and parcels of the Improvement Area sufficient to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 4. 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 40 years.

SECTION 5. 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 6. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 7. The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on the various lot and parcels of said Improvement Area a benefit assessment sufficient to pay the principal of and interest on such bonds as the same become due and payable.

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

SECTION 8. 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 9. The expected source of funds to be used initially to pay for up to \$400,000 of the expenditures authorized by Section 1 of this resolution shall be from moneys held in various accounts of the Town. The Town then reasonably expects to reimburse such expenditure with the proceeds of the bonds or bond anticipation notes authorized by Section 2 of this resolution. This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

SECTION 10. 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 11. 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 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 12. The Town had issued a negative declaration determining that the undertaking of the Project will not have a significant effect on the environment.

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:

(1) (a) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or

(b) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

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

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

SECTION 14. 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 said Town and hereby designated as the official newspaper of said Town for such publication.

SECTION 15. This Resolution is effective immediately.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

AYES: Supervisor Post
Deputy Supervisor Underhill
Councilwoman Michalak

NOES:

ABSENT: Councilman Gerace

UNAPPROVED
DID NOT PASS BY TWO-THIRDS VOTE

NOTICE OF BOND RESOLUTION
TOWN OF BATAVIA

NOTICE IS HEREBY GIVEN that a bond resolution, a summary of which is published herewith, has been adopted by the Town Board of the Town of Batavia, County of Genesee, on August 1, 2007 and the validity of the obligations authorized by such resolution may be hereafter contested only if:

(1) (a) such obligations were authorized for an object or purpose for which the Town of Batavia is not authorized to expend money or

(b) if the provisions of law which should have been complied with as of the date of publication of this notice were not substantially complied with

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

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

(2) such obligations were authorized in violation of the provisions of the Constitution of New York.

SUMMARY OF BOND RESOLUTION

The following is a summary of a bond resolution adopted by the Town Board of the Town of Batavia on August 1, 2007. Said resolution authorizes the issuance and sale of a serial bond or bonds and a bond anticipation note or notes in anticipation of the issuance and sale of said serial bonds, in an amount not to \$400,000, offset by any federal, state, county and/or local grant funds received, with the balance of said cost of said serial bonds to be paid by a benefit assessment on the various lots and parcels of the West Saile Drive Sewer Improvement Area, in the manner provided by law. The proceeds from the sale of the obligations authorized in said resolution shall be used for the specific purpose of the construction and installation of approximately 2,100 linear feet of 12-inch gravity sewer main and 400 feet of 2-inch low pressure force main and new precast concrete manholes. The main is designed to be able to accept additional flows from assumed future development as well as current flows in the Sewer Improvement Benefit Area, including connections and other improvements and costs incidental thereto, land or rights in land, equipment, machinery, furnishings appurtenances and related site work and other ancillary work, including apparatus, preliminary costs and other improvements and costs incidental thereto. The period of probable usefulness for said purpose is 40 years. A copy of the resolution summarized herein is available for public inspection during normal business hours at the Office of the Town Clerk, located in the Town Hall, Batavia, New York.

RESOLUTION NO. 130:

Councilwoman Michalak offered the following:

RESOLUTION TO ACCEPT ASSIGNMENT OF ENGINEERING AGREEMENT

WHEREAS, the Town of Batavia, New York will be undertaking a public project to be known as the Saile Drive Sewer Improvement Area, and

WHEREAS, this project was previously planned to have been constructed as a private project by the Genesee Gateway Local Development Corporation with the intention that this Corporation would dedicate the completed sewer improvements to the Town of Batavia, and

WHEREAS, Genesee Gateway Local Development Corporation entered into an Agreement with Clark Patterson Associates to perform the engineering services needed for this project, and

WHEREAS, it is necessary for the Town of Batavia to accept the Assignment of this Agreement in order to move forward with this project.

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Batavia, New York that the terms and conditions of an "Assignment of Engineering Agreement" is hereby accepted and adopted by the Town Board such that the Town will be bound by the terms and conditions of a "Proposal of Engineering Services Town of Batavia Sewer District No. 3", dated March 22, 2007, by and between Genesee Gateway Local Development Corporation and Clark Patterson Associates, with both of these documents being annexed hereto and made a part of the Minutes, and

BE IT FURTHER RESOLVED that the Town Supervisor is authorized and directed to execute the "Assignment of Engineering Agreement" on behalf of the Town of Batavia.

Second by: Deputy Supervisor Underhill
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 131:

Deputy Supervisor Underhill offered the following:

**OUT OF DISTRICT WATER AGREEMENT BETWEEN THE
TOWN OF BATAVIA AND DAVID AND SANDRA DISALVO**

WHEREAS, the Town is the owner of the Consolidated Water District in the Town of Batavia, New York, which Water District provides water service to residents of the Town in general; and

WHEREAS, David and Sandra Di Salvo, 8716 Wortendyke Road, in the Town of Batavia, New York which parcel of property is in close proximity to the Batavia Consolidated Water District facilities; and

WHEREAS, David and Sandra Di Salvo have requested permission to become customers of and to purchase water from the Town of Batavia; and

WHEREAS, in the case of Out-of-District water service, a water agreement must be executed between the Town of Batavia and the owner of the property designated as Out-of-District water connections.

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the water agreement (attached) between the Town of Batavia and David and Sandra Di Salvo, 8716 Wortendyke Road, Batavia, New York.

Second by: Councilwoman Michalak
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 132:

Supervisor Post offered the following:

AUGUST 1, 2007
SPECIAL TOWN BOARD MEETING

APPOINTMENT TO ZONING BOARD OF APPEALS
TO FILL AN UNEXPIRED TERM

WHEREAS, Dorothy Myers, 25 Old Meadow Lane, Batavia, New York, was appointed to the Town of Batavia Zoning Board of Appeals on January 4, 2005, her term expiring December 31, 2009; and

WHEREAS, Dorothy has resigned from the Zoning Board of Appeals (letter attached); and

WHEREAS, John Della Penna, 8910 Lehigh Avenue is interested in serving as a Regular Zoning Board of Appeals Member to fill the remainder of this unexpired term, currently Mr. Della Penna serves as an Alternate Member.

RESOLVED, the Batavia Town Board hereby appoints John Della Penna, 8910 Lehigh Avenue, Batavia, New York, to the Town of Batavia Zoning Board of Appeals, commencing immediately and expiring December 31, 2009.

Second by: Deputy Supervisor Underhill
APPROVED by unanimous vote (3-0)

EXECUTIVE SESSION: Motion Deputy Supervisor Underhill, second Councilwoman Michalak to adjourn at 8:00 P.M. for executive session to discuss union employee matters.

MOTION CARRIED by unanimous vote (3-0)

RECONVENE: Motion Deputy Supervisor Underhill, second Councilwoman Michalak to reconvene at 8:35 P.M.

MOTION CARRIED by unanimous vote (3-0)

ADJOURNMENT:

Motion Deputy Supervisor Underhill, second Councilwoman Michalak to adjourn the Special Town Board Meeting at 8:35 P.M.

MOTION CARRIED by unanimous vote. (3-0)

Respectfully submitted,

Teresa M. Morasco
Town Clerk