

**AUGUST 6, 2007
SPECIAL TOWN BOARD MEETING**

Town Hall

7:00 A.M.

Roll Call

Present: Supervisor Post
Deputy Supervisor Underhill
Councilwoman Michalak
Councilman Gerace

Others

Present: Town Clerk Morasco

The Supervisor called the meeting to order at 7:03 A.M.

RESOLUTION NO. 133:

Deputy Supervisor Underhill offered the following:

A BOND RESOLUTION, DATED AUGUST 6, 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 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,

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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.

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

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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,

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

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(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: Deputy Supervisor Underhill
Councilman Gerace
Councilwoman Michalak
Supervisor Post

NOES:

ABSENT:

The foregoing resolution was thereupon declared duly adopted.

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 6, 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

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

SUMMARY OF BOND RESOLUTION

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The following is a summary of a bond resolution adopted by the Town Board of the Town of Batavia on August 6, 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.

ADJOURNMENT:

Motion Deputy Supervisor Underhill, second Councilwoman Michalak to adjourn the Special Town Board Meeting at 7:05 A.M.

MOTION CARRIED by unanimous vote. (4-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk