

**OCTOBER 22, 2008
REGULAR TOWN BOARD MEETING**

Town Hall

7:00 P.M.

Al Lang, Councilman led the pledge to the flag.

Roll Call

Present: Supervisor Post
Deputy Supervisor Underhill
Councilman Lang
Councilwoman Michalak
Councilman Gerace

Others

Present: Town Clerk Morasco

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

September 17, 2008 Regular Town Board Meeting: Motion Deputy Supervisor Underhill, second Councilwoman Michalak to approve the minutes as written.

Ayes: Underhill, Michalak, Gerace, Lang, Post

MOTION CARRIED by unanimous vote (5-0)

October 6, 2008 Special Town Board Meeting: Motion Councilman Lang, second Deputy Supervisor Underhill to approve the minutes as written.

Ayes: Lang, Underhill, Michalak, Gerace, Post

MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 163:

Councilman Lang offered the following:

**LEVYING UNPAID WATER AND SEWER
CHARGES AGAINST 2009 TAX WARRANT**

WHEREAS, the Deputy Town Clerk has prepared a list of all property owners who owe the Town for water and/or sewer rents as of October 20, 2008; and

WHEREAS, Section 229-15 (c) of Town Law stipulated that such amounts owing shall be levied against the property to which the service is rendered.

NOW, THEREFORE, BE IT RESOLVED, that the attached list in the amount of \$30,230.82 or as may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2009 tax warrant.

Second by: Deputy Supervisor Underhill

Ayes: Lang, Underhill, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

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RESOLUTION NO. 164:

Deputy Supervisor Underhill offered the following:

**CALLING FOR PUBLIC HEARING
ON THE 2009 TOWN BUDGET**

WHEREAS, the Town Board of the Town of Batavia is in the process of finalizing the preparation of the Preliminary 2009 Town Budget;

WHEREAS, said 2009 Preliminary Town Budget will be filed with the Town Clerk no later than October 24, 2008;

RESOLVED, the Batavia Town Board hereby authorizes and orders that a Public Hearing on the Preliminary Town Budget for 2009 be conducted at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, beginning at 6:45 P.M. on Wednesday, November 5, 2008, at which time and place all interested persons will be heard; and be it further

RESOLVED, that the Town Clerk is hereby authorized and directed to publish such public notice of the subject Public Hearing as required by law.

Second by: Councilman Gerace

Ayes: Underhill, Gerace, Lang, Michalak, Post

APPROVED by unanimous vote (5-0)

**NOTICE OF PUBLIC HEARING
ON THE 2009 TOWN BUDGET**

PUBLIC NOTICE IS HEREBY GIVEN that the Preliminary Budget of the Town of Batavia for fiscal year 2009 has been completed and filed in the Office of the Town Clerk of the Town of Batavia, where it is available for public inspection during regular business hours.

Notice is also given that the Town Board of the Town of Batavia will hold a Public Hearing on the Preliminary Budget at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York beginning at 6:45 P.M. on Wednesday, November 5, 2008 at which time and place any person will be heard in favor of or in opposition to any item or items contained therein.

Public Official Salaries are as follows:

Supervisor:	\$30,000.00
Deputy Supervisor:	\$15,000.00
Councilmen (3):	\$10,000.00
Town Clerk/Tax Collector:	\$43,734.00
Highway Superintendent:	\$58,861.00
Town Justices (2):	\$21,120.00

The foregoing by order of the Batavia Town Board.

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Dated: October 22, 2008

Teresa M. Morasco
Batavia Town Clerk

RESOLUTION NO. 165:

Supervisor Post offered the following:

CALLING A PUBLIC HEARING
SEWER RENTS – MAY 2009 TO FEBRUARY 2010

WHEREAS, pursuant to General Municipal Law Section 452 as amended, impositions of sewer rents in Sewer Districts No. 1 and No. 2 in the Town of Batavia are subject to approval by the Batavia Town Board,

WHEREAS, these sewer rents are imposed to pay for the cost of wastewater treatment and operation and maintenance of the sewer lines,

WHEREAS, the proposed sewer rents for May 2009 to February 2010 are Sewer District No. 1 - \$5.25/1,000 gallons, Sewer District No. 2 - \$5.25/1,000 gallons;

WHEREAS, a public hearing is required before the new sewer rents are imposed;

RESOLVED, the Batavia Town Board hereby authorizes and orders that a Public Hearing on the Proposed Sewer Rents-May 2009 to February 2010 be conducted at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, beginning at 6:50 P.M. on Wednesday, November 5, 2008, at which time and place all interested persons will be heard; and be it further

RESOLVED, that the Town Clerk is hereby directed to have published at least once in the Daily News at least five (5) days before the date scheduled for the public hearing, the public hearing notice which is attached hereto.

Second by: Councilman Lang

Ayes: Post, Lang, Underhill, Michalak, Gerace

APPROVED by unanimous vote (5-0)

NOTICE OF PUBLIC HEARING
SEWER RENTS – MAY 2009 – FEBRUARY 2010

PUBLIC NOTICE IS HEREBY GIVEN that a public hearing will be held November 5, 2008 at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, at 6:50 P.M. for the purpose of imposing Sewer Rents. The proposed sewer rents for May 2009 to February 2010 are, Sewer District No. 1 at \$5.25/1,000 gallons and Sewer District No. 2 at \$5.25/1,000 gallons.

The foregoing by order of the Batavia Town Board.

Dated: October 22, 2008

Teresa M. Morasco

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Batavia Town Clerk

RESOLUTION NO. 166:

Councilwoman Michalak offered the following:

**CALLING A PUBLIC HEARING
WATER RATE – MAY 2009 TO FEBRUARY 2010**

WHEREAS, pursuant to the Code of the Town, Section 229-15, the Town Board shall by resolution establish and from time to time modify the water rate for all water sold by the Town of Batavia; and

WHEREAS, the proposed water rate for May 2009 to February 2010 is \$4.22/1,000; and

WHEREAS, as a courtesy to the consumers, the Town Board wishes to call a public hearing before imposing the new rates.

RESOLVED, the Batavia Town Board hereby authorizes and orders that a Public Hearing on the proposed water rate-May 2009 to February 2010 be conducted at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, beginning at 6:55 P.M. on Wednesday, November 5, 2008, at which time and place all interested persons will be heard; and be it further

RESOLVED, that the Town Clerk is hereby directed to have published at least once in the Daily News at least five (5) days before the date scheduled for the public hearing, the public hearing notice which is attached hereto.

Second by: Councilman Gerace

Ayes: Michalak, Gerace, Lang, Underhill, Post

APPROVED by unanimous vote (5-0)

**NOTICE OF PUBLIC HEARING
WATER RATE – MAY 2009 – FEBRUARY 2010**

PUBLIC NOTICE IS HEREBY GIVEN that a public hearing will be held November 5, 2008 at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, at 6:55 P.M. for the purpose of imposing Sewer Rents. The proposed water rate for May 2009 to February 2010 is \$4.22.

The foregoing by order of the Batavia Town Board.

Dated: October 22, 2008

Teresa M. Morasco
Batavia Town Clerk

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RESOLUTION NO. 167:

Councilman Gerace offered the following:

**AUTHORIZING PARTICIPATION IN
YEAR 2009 JOINT YOUTH PROGRAM**

WHEREAS, the Town of Batavia has previously participated in a Joint Youth Project along with the following communities: the City of Batavia (Program R006); the Town and Village of Oakfield and Town of Alabama (Program R005); the Towns of Pembroke and Darien and the Village of Corfu (Program R004); the Town and Village of Alexander (Program R003); the Town and Village of Bergen and the Town of Byron (Program R002); and the Town and Village of Elba (Program R001), and

WHEREAS, the Town of Batavia's contribution to this joint youth project is \$9,146.00 and such Town contributions qualify for New York State Aid reimbursement of approximately \$2,249.00;

RESOLVED, that the Batavia Town Board hereby approves and authorizes the Town's participation in the aforementioned Joint Youth Project in the year 2009; and be it further

RESOLVED, that the year 2009 Joint Youth Project as herein described is approved, as are Town's contributions as specified for this program in the year 2009:

<u>Programs</u>	<u>Town of Batavia Share</u>
City of Batavia (R006)	\$ 3,442.00
Pembroke, et al. (R004)	\$ 2,080.00
Oakfield/Alabama (R005)	\$ 906.00
Elba (R001)	\$ 906.00
Byron/Bergen (R002)	\$ 906.00
Alexander (R003)	\$ 906.00
Total	\$9,146.00

Second by: Supervisor Post

Ayes: Gerace, Post, Lang, Underhill, Michalak

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 168:

Councilman Lang offered the following:

APPOINTMENT TO ASSESSMENT BOARD OF REVIEW-UNEXPIRED TERM

WHEREAS, Phillip Penepent was appointed to the Town of Batavia Assessment Board of Review, his term expiring September 30, 2010; and

WHEREAS, Mr. Penepent has passed away; and

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WHEREAS, his term of office needs to be filled.

RESOLVED, the Batavia Town Board hereby appoints Douglas Strang, 9192 Wilkinson Road, Batavia, New York, to the Assessment Board of Review to serve the remaining time of Mr. Penepent's term, expiring September 30, 2010.

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

RESOLUTION NO. 169:

Deputy Supervisor Underhill offered the following:

APPOINTMENT TO ASSESSMENT BOARD OF REVIEW

WHEREAS, Leo Auriemma, 3108 Pearl Street Road, Batavia, New York, term on the Assessment Board of Review expired September 30, 2008.

RESOLVED, the Batavia Town Board hereby appoints Rhonda Saulsbury, 8795 Rollin Circle, Batavia, New York to the Assessment Board of Review for a term to commence immediately and expiring September 30, 2012.

Second by: Councilman Lang
Ayes: Underhill, Lang, Michalak, Post
Abstain: Gerace
APPROVED (4-ayes, 1-abstain)

The Supervisor expressed his thanks for Leo's past service on the Assessment Board of Review and welcomed the new members, Douglas Strang and Rhonda Saulsbury.

RESOLUTION NO. 170:

Supervisor Post offered the following:

**RESOLUTION TO APPROVE A WATER CUSTOMER AGREEMENT
WITH NEIL AMBROSE AND JANET AMBROSE**

WHEREAS, the Town of Bethany has received a request from two of its residents, namely, Neil Ambrose and Janet Ambrose, residing at 4986 Batavia-Bethany Townline Road, and

WHEREAS, the Town of Bethany desires to provide water service to their residence, however, Bethany does not currently have a water district servicing their property location, and

WHEREAS, the Town of Bethany has requested that the Town of Batavia provide water service to these residents upon the same terms and conditions of other residents of the Town of Batavia, that are served pursuant to an out of district Agreement.

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NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that the Supervisor is hereby authorized and directed on behalf of the Town of Batavia to execute a proposed Water Customer Agreement, by and between the Town of Batavia, Neil Ambrose and Janet Ambrose, residing at 4986 Batavia-Bethany Townline Road, in the Town of Bethany, and the Town of Bethany, New York, and

BE IT FURTHER RESOLVED that the sale of water to these out of district customers in the Town of Bethany will not at this time reduce the supply of the Town of Batavia water so as to render the same insufficient to service all water districts within the Town of Batavia for the residents located therein, and

BE IT FURTHER RESOLVED that upon completion of the execution of the Water Customer Agreement, employees of the Town are hereby authorized and directed to take all steps necessary to provide water service to Neil Ambrose and Janet Ambrose and invoice them for the required charges set forth therein.

Second by: Councilman Gerace

Ayes: Post, Gerace, Lang, Underhill, Michalak

APPROVED by unanimous vote (5-0)

WATER CUSTOMER AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2008, by and between the **TOWN OF BATAVIA, NEW YORK**, a municipal corporation having its office and principal place of business at 3833 West Main Street Road in the Town of Batavia, County of Genesee and State of New York, (hereinafter referred to as "Batavia"), and **NEIL AMBROSE and JANET AMBROSE**, owners of property at 4986 Batavia-Bethany Townline Road in the Town of Bethany, County of Genesee and State of New York, (hereinafter referred to as "Customers"), and the **TOWN OF BETHANY**, a municipal corporation having its office and principal place of business at 10440 Bethany Center Road in the Town of East Bethany, County of Genesee and State of New York, (hereinafter referred to as "Bethany").

WITNESSETH:

WHEREAS, Batavia is the owner of the Putnam and Shepard Roads Water District in the Town of Batavia, New York, which Water District provides water service to residents in a portion of the Town of Batavia; and

WHEREAS, the Customers own 4986 Batavia-Bethany Townline Road in the Town of Bethany, New York, which parcel of property is in close proximity to the Town's Putnam and Shepard Roads Water District facilities; and

WHEREAS, the Customers have requested permission to become customers of and to purchase water from Batavia; and

WHEREAS, the Customers reside in the Town of Bethany, and Bethany intends to provide permission for the Town of Batavia to service the Customers as set forth herein; and

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WHEREAS, the Town of Batavia has, by a Resolution, dated September 17, 2008, determined that the sale of water to the Customers will not at this time reduce the supply of its water so as to render the same insufficient to service all water districts within the Town of Batavia or their inhabitants;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties, pursuant to Section 198 (3)(b) of the New York State Town Law, covenant and agree as follows:

Customers shall, at their own expense, extend water from a new curb box to their residence at 4986 Batavia-Bethany Townline Road, Bethany, New York. Batavia shall install a water meter and pit at a location to be selected by Batavia, and the Customers shall pay for the installation cost, as per paragraph 2(B) below. Customers shall maintain all lines so placed from said curb box to their residence, as well as all internal plumbing.

Customers shall make the following payments to Batavia when billed:

An annual debt service payment, if any is due, to be paid in January of each year based upon the same formula used for customers within the Putnam and Shepard Roads Water District. If service to Customers begins during a calendar year after January 1st, then within 10 days of service, payment will be made on a pro rata basis from the date of service to the end of this year.

Such charges as apply as set forth on the Town of Batavia "Water and Sewer Fee Schedule, June 2007", a copy of which is annexed hereto and made a part hereof as **EXHIBIT A**; as well as any future charges that may apply pursuant to this fee schedule, or any amendments thereof.

User charges based on water consumption as billed by the Town of Batavia.

Legal expenses incurred by Batavia in connection with the negotiation, preparation and execution of this Agreement not in excess of Three Hundred Dollars (\$300.00).

The sum of Five Hundred Dollars (\$500.00) to be deposited, without interest, in an account to be used to pay any delinquent water charges that may arise in the future. The right to deduct delinquent charges from this sum of money is in addition to the Town of Batavia's right to terminate service. Upon termination of service as set forth in paragraph 4 herein, the deposit will be returned to Customer.

Customers further covenant and agree as follows:

To use said water only for residential purposes for the residence located at 4986 Batavia-Bethany Townline Road, Bethany, New York.

Not to permit any tap-in to any of the water lines installed by them for the benefit of any person, firm or corporation.

To abide by and obey all presently existing and future enacted rules, regulations and ordinances of the Town of Batavia pertaining to the use of and payment for water sold to residents of the Town of Batavia water districts as if said Customers were residents of the Putnam and Shepard Roads Water District.

To become a part of any water district or extension which geographically encompasses their property, and shall affirmatively sign any petition that seeks to establish such water district; as well as refraining from any acts in opposition to such a water district, such as voting against the same in any referendum.

Not to assign this Agreement without the prior written consent of the Towns of Batavia and Bethany.

This Agreement shall automatically terminate upon the happening of any of the following events:

The formation of a water district or extension geographically encompassing the property at 4986 Batavia-Bethany Townline Road, Bethany, New York, owned by the Customers.

A determination by the Town of Batavia, in its sole judgment, that the sale of water hereunder will reduce the supply of water to a level insufficient to meet the needs of any water district within the Town of Batavia or the inhabitants thereof.

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A determination by appropriate State, County or Local officials that the supplying of water pursuant to this Agreement either alone or in conjunction with the supplying of water to others inside or outside of the territorial limits of the Town of Batavia or of any of its districts or extensions constitutes a community water supply system.

A determination by appropriate State, County or Local officials that the sampling and/or monitoring by the Town of Batavia of water supplied by this Agreement must be increased or altered from the procedures presently being following by the Town in sampling and/or monitoring.

Any breach of this Agreement by Customers.

The County of Genesee, from whom the Town of Batavia purchases its water, objecting to this Agreement.

The Town of Bethany does hereby approve the terms and conditions as set forth in this Agreement, and allows and authorizes the Town of Batavia to provide the water service as set forth herein to the Customers, who are located within the boundaries of the Town of Bethany.

~~IN WITNESS WHEREOF~~, the parties have executed this Agreement the day and year first written above.

TOWN OF BATAVIA, NEW YORK

By: _____
Gregory H. Post, Supervisor

TOWN OF BETHANY, NEW YORK

By: _____
Louis Gayton, Supervisor

Neil Ambrose, Customer

Janet Ambrose, Customer

Abstract No. 10-2008: Motion Councilman Lang, second Councilwoman Michalak to authorize the Supervisor to pay the following vouchers:

General	\$ 214,421.13
Highway	19,231.43
Sewer No. 1	2,142.59
Sewer No. 2	6,351.44
Water	7,160.85
Ellicott	63,135.56
Putnam/Shepard	401,438.16
Wilkinson	219,171.03
Pearl	134,520.07
Rose Water	14.00

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Saile Sewer	630.00
Hartshorn	42,625.00
Alexander/Pike Water	14.00
TOTAL	\$1,110,855.26

Check numbers 13052 thru 13157, ACH, WIRE
Ayes: Lang, Michalak, Gerace, Underhill, Post
MOTION CARRIED by unanimous vote (5-0)

DEPARTMENT REPORTS:

Supervisor's Report:

Water/Sewer Department- has been busy with the weather change.

Town Boards- The Supervisor attended the Planning Board and Zoning Board Appeals meetings held this week. ~~The Town Board has been busy working on the budget over the last few weeks, along with department heads.~~

Status Report on expenditures and revenues is available for the Board's review. The investment sheets will be entered into the minute book. The monies were re-invested in CD's today and are paying a rate of 1.98%.

Special Town Board Meeting will be held November 5, 2008 immediately following the scheduled public hearings to call for Public Hearings for the financing of the Alexander/Pike Roads Water District and the Rose Road Water District and other business as needed.

COMMUNICATIONS:

The Town Clerk reported on the following:

September Town Clerk monthly report collected a total of \$12,067.55 remitted \$6,526.61 to the Supervisor for the Local Share.

Assemblyman R. Stephen Hawley Drive Speed Limit- Received authorization from the NYSDOT to reduce the speed to 45 mph on a portion of Assemblyman R. Stephen Hawley Drive.

Genesee ARC Open House- On Saturday, October 25, 2008 from 1:00 P.M. to 3:00 P.M. the Genesee ARC is having an Open House for the Hartshorn Road Individualized Residential Alternative Home, located at 8658 Hartshorn Road.

Rural Learning Network- The Rural Learning Network is holding a conference on greener communities on October 28, 2008 at the Genesee River Restaurant in Mt. Morris.

Liquor License Renewal- Received notice from Alex's Place at the Edge of Town, Inc. that they have made application to NYS to renew their liquor license.

Genesee/Finger Lakes Regional Planning Council- The GFLRPC Fall Local Government Workshop is Friday, November 14, 2008 at the Genesee River Restaurant in Mt. Morris, New York.

Deer Management Permits- The second round of DMP will start being issued on Saturday, November 1 on a first come first serve basis. In order to give the hunters the opportunity to receive the DMP, the Town Clerk's Office will be open on Saturday, November 1 from 8:30 to 12:30 P.M.

Credit/Debit Cards- A representative from Nationwide Payment Solutions did a presentation for our Genesee County Town Clerks Association yesterday on municipalities accepting Credit and Debit Cards.

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COMMITTEE REPORTS:

Time Warner Cable- Councilwoman Michalak reported that the Town of Batavia received a copy of a letter and petition that was filed in the Stafford Town Clerk's office, petitioning for Cable TV on Batavia-Stafford Townline Road. She has contacted Time Warner and has faxed all this information on to them to investigate the possibilities of servicing this area.

Farmland Protection- Deputy Supervisor Underhill reported that the Farmland Protection Committee met last Thursday with the consultants and reviewed the scope of work. The first meeting for public input will be November 13.

Assessment – Councilman Gerace reported the Assessment Committee will be meeting on November 10 and should have information ready to present to the Genesee County Legislators. Also, GAR Associates will be doing a presentation on Assessment tomorrow morning.

ADJOURNMENT:

Motion Deputy Supervisor Underhill, second Councilman Gerace to adjourn the Regular Town Board Meeting at 7:30 P.M.

Ayes: Underhill, Gerace, Lang, Michalak, Post

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk