

**JANUARY 20, 2010  
REGULAR TOWN BOARD MEETING**

**Town Hall**

**7:00 P.M.**

Gary Diegelman, Zoning Board of Appeals Chair 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  
Building Inspector Worthington  
Gary Diegelman, ZBA Chair  
Joyce Diegelman, Clerk  
Roger Muehlig, Daily News Reporter

The Supervisor called the meeting to order at 7:38 P.M.

**December 16, 2009 Public Hearing-Fire Protection Contract, December 16, 2009 Regular Town Board Meeting, January 6, 2010 Organizational Meeting, and January 6, 2010 Special Town Meeting:** Motion Councilman Lang, second Councilwoman Michalak to approve the minutes as written.  
**Ayes:** Lang, Michalak, Gerace, Underhill, Post  
**MOTION CARRIED by unanimous vote (5-0)**

**RESOLUTION NO. 25:**

Councilman Lang offered the following:

**RESOLUTION ADOPTING LOCAL LAW #1 OF 2010**

**WHEREAS**, proposed Local Law #1 of 2010 of the Town of Batavia entitled “A Local Law to Authorize a Grant to the Genesee County Industrial Development Agency to Develop the Upstate Med & Tech Park and the Genesee Valley Agricultural Business Park”, which proposed Local Law in its final form was presented to the Town Board at the meeting held on December 16, 2009, and a copy thereof was kept with the Town Clerk and copies both laid upon the desks of the members of said Town Board Members and mailed to each member of the Town Board Members not in attendance at said meeting; and

**WHEREAS**, a public hearing on the advisability of enacting said proposed Local Law was held on January 20, 2010, before this Town Board, pursuant to public notice duly published in The Daily News according to law, at which time all interested persons were heard; and

**WHEREAS**, the Town Board of the Town of Batavia, New York is of the opinion that adoption of said proposed Local Law #1 of 2010 is in the best interest of the Town of Batavia, New York,

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**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Batavia, New York that said proposed Local Law #1 of 2010 be and the same hereby is adopted; and

**BE IT FURTHER RESOLVED**, that a certified copy of said Local Law #1 of 2010 be filed with the New York State Secretary of State in accordance with Law.

**Second by:** Councilman Gerace

**Ayes:** Lang, Gerace, Underhill, Michalak, Post

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 26:**

Deputy Supervisor Underhill offered the following:

**AUTHORIZING BUDGET TRANSFERS FOR 2009**

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

**General Fund:**

<b><u>From</u></b>	<b><u>Amount</u></b>	<b><u>To</u></b>
A1110.107 Justices/ P.S. Clerk	0.05	A1110.102 Justices/ P.S. - Cleveland
A1110.107 Justices/ P.S. Clerk	406.00	A1110.105 Justices/ Security/Williams
A1110.107 Justices/ P.S. Clerk	237.00	A1110.106 Justices/Security/Cleveland
A1110.107 Justices/ P.S. Clerk	1113.75	A1110.103 Justices/ P.S./Full Time
A1220.400 Supervisor/Contractual	2579.71	A1220.120 Supervisor/ P.S./ OT
A1220.400 Supervisor/Contractual	89.00	A1220.401 Supervisor/Bookkeeper/Contr.
A1411.100 Clerk-Typist/ Pers. Svc.	43.59	A1231.120 Deputy Clerk/ P.S./ OT
A1355.103 Assessor/ P.S./ Part Time	0.08	A1355.100 Assessor/Pers. Svc.
A1355.103 Assessor/ P.S./ Part Time	0.03	A1355.101 Assessor/ P.S./Annual Reasses.
A1410.400 Town Clerk/ Contractual	56.00	A1410.101 Town Clerk/P.S./Part Time
A1440.104 Engineering/P.S./ Asst. Eng.	32353.00	A1440.200 Engineering/Equipment
A1440.104 Engineering/P.S./ Asst. Eng.	18147.00	A7110.400 Culture-Rec./Parks/Contractual
A1440.400 Engineering/Contractual	0.05	A1440.101 Engineering/ Pers. Svc.
A1440.400 Engineering/Contractual	1176.31	A1440.120 Engineering/P.S./ OT
A1620.402 Buildings/Contr./Other	741.00	A1620.400 Buildings/Contr./Utilities
A1620.402 Buildings/Contr./Other	527.00	A1620.403 Buildings/Contr./Janitorial
A1620.404 Buildings/Contractual	8100.00	A1620.200 Buildings/Equipment
A1670.400 Central Printing/Contractual	334.00	A1680.400 Central Data/Contractual
A1680.200 Central Data/Equipment	334.00	A1620.400 Buildings/Contr./Utilities
A1680.401 Central Data/Contr./Maint.	238.93	A1680.400 Central Data/Contractual
A1990.400 Special/Exp./Contingency	4414.00	A1410.401 Clerk/Contr./ Records Mgmt.
A1990.400 Special/Exp./Contingency	65533.00	A6460.410 Eco. Assist/Ind. Dev. Agency
A3620.200 Building Ins./ Equipment	10.00	A3620.400 Building Ins./Contr./Contract
A3620.401 Bldg. Ins./Contr./Legal	38.00	A3620.400 Bldg. Ins./Contr./Contract
A5132.101 Garage/P.S./Clerical	44.53	A5010.400 Trans./Highway Super./P.S.

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A5123.403 Garage/Contr./ Insurance	22.92	A5132.402 Garage/Contr./Other
A5182.400 Street Lighting/Contractual	1290.00	A5182.401 Street Lighting/Contr./Vet. Mem.
A5182.400 Street Lighting/Contractual	45.00	A8165.404 Superfund/Contr./Legal
A5182.400 Street Lighting/Contractual	86.31	A5182.401 Street Lighting/Contr./Vet. Mem.
A5182.400 Street Lighting/Contractual	200.00	A6410.400 Publicity/Contractual
A5182.400 Street Lighting/Contractual	311.00	A5182.401 Street Lighting/Contr. Vet. Mem.
A7110.102 Culture-Rec./Parks/P.S./PT Gallow.	3879.00	A7110.401 Culture-Rec./Parks/Contr.
A7110.102 Culture-Rec./Parks/P.S./PT	2218.48	A7110.400 Culture-Rec./Parks/Contractual
A8010.101 Home & C.S./ZBA/Secretary	100.00	A8010.102 Home & C.S./ZBA/Pers. Svc.
A8010.401 ZBA/Contr./Legal Fees	62.44	A8010.400 Home & C.S./ZBA/Contractual
A8020.102 Planning/Pers. Svc./ Board	500.00	A8020.101 Planning/ Pers. Svc/Secretary
A8020.401 Planning/Contr. Legal Fees	7.48	A8020.400 Planning/Contr./ Supplies
A8120.400 Sewer Imp./Contractual	1758.00	A8162.400 Transfer Station/Contractual
A5132.101 Garage/P.S./Clerical	1205.81	A8162.100 Transfer Station/ Pers. Svc.
A5132.101 Garage/P.S./Clerical	47.53	A8162.101 Transfer Station/ Pers. Svc.
A5132.101 Garage/P.S./Clerical	2493.84	A8162.400 Transfer Station/Contractual
A8165.403 Superfund/Contr./Envir. Test	45.00	A8165.401 Superfund/Contr./Grease-Filters
A8165.403 Superfund/Contr./Envir. Test	199.00	A8165.406 Superfund/Contr./ Post Closure
A8165.405 Superfund/Contr./Leachate	183.67	A8165.406 Superfund/Contr./Post Closure
A8165.405 Superfund/Contr./Leachate	560.95	A8165.407 Superfund/Contr./Leach
Transport		
A8540.401 Drainage/Contr./W. Main-Lew. Corr.	413.00	A8662.400 Public Works/Contr./Central
A8540.401 Drainage/Contr./W. Main-Lew. Corridor	20471.90	A8662.400 Public Works/Contr./GC
A8540.401 Drainage/Contr./W. Main-Lew. Pro.	20022.47	A8750.400 Agriculture/Contr./Farmland
A9010.800 Emp. Benefit/Retirement	149.68	A9050.800 Emp. Benefit/Unemp. Insurance
A9055.800 Emp. Benefit/Disability Ins.	1718.00	A9060.800 Emp. Benefit/Health Ins.
A9060.801 Emp. Benefit/Health Ins. Exp. of	3565.50	A9089.800 Emp. Benefit/Staff Dev./In Lieu
A9089.802 Emp. Benefit/Staff Development	11222.72	A9060.800 Emp. Benefit/Health Ins.

**Highway**

DA5110.102 Trans./General Repairs/P.S.	150.00	DA5110.400 Trans./ General Repairs/Contr.
DA5130.400 Trans./Machinery/Contr.	372.00	DA5110.400 Trans./ General Repairs/Contr.
DA5130.400 Trans./Machinery/Contr.	3.01	DA5110.400 Trans./ General Repairs/Contr.
DA5130.200 Trans./Machinery/Equipment	4150.00	DA5142.400 Snow Removal/ Contr.
DA5140.100 Trans./Brush & Weeds/P.S.	0.10	DA5142.100 Snow Removal/P.S.
DA5142.100 Snow Removal/P.S.	20313.19	DA5142.400 Snow Removal/ Contr.
DA5142.101 Snow Removal/P.S./Wing	1619.41	DA5142.400 Snow Removal/ Contr.
DA5130.200 Trans./Machinery/Equipment	2842.18	DA5142.400 Snow Removal/ Contr.
DA9010.800 Emp. Benefits/State Retire	1090.00	DA9060.800 Emp. Benefit/Health Ins.

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DA9050.800 Emp. Benefit/Unemp. Ins.      5175.18      DA9060.800 Emp. Benefit/Health Ins.

**Sewer District 1**

SS1-8120.102 Sanitary Sewer/P.S./P.T.      209.93      SS1-8120.103 Sanitary Sewer/P.S./Morrow  
SS1-8120.401 Sanitary Sewer/Contr./ Legal 507.90      SS1-9010.800 Emp. Benefit/State Retire

**Sewer District 2**

SS2-8110.100 Sewer Administration /P.S.      1020.00      SS2-8110.200 Sewer Admin./Equipment  
SS2-8120.102 Sanitary Sewer/P.S./P.T.      262.05      SS2-8120.103 Sanitary Sewer/P.S./Morrow  
SS2-8120.400 Sanitary Sewer/Contractual      186.67      SS2-8120.401 Sanitary Sewer/Contr./Legal  
SS2-8120.400 Sanitary Sewer/Contractual      448.00      SS2-8120.401 Sanitary Sewer/Contr./Legal  
SS2-8120.400 Sanitary Sewer/Contractual      1015.80      SS2-9010.800 Emp. Benefit/State Retire  
SS2-8120.400 Sanitary Sewer/Contractual      1031.00      SS2-9060.800 Emp. Benefits/Health Ins.  
SS2-9710.701 Serial Bonds/Saile Dr./Int.      1188.00      SS2-9710.601 Serial bonds/Principal/Saile  
Dr.  
SS2-8120.400 Sanitary Sewer/Contractual      1027.38      SS2-9060.800 Emp. Benefits/Health Ins.

**Water**

SW8340.102 Transmission/P.S./P.T.      3904.78      SW8340.103 Transmission/P.S./Morrow  
SW9010.800 Emp. Benefit/State Retire      1696.35      SW9060.800 Emp. Benefit/Health Ins.  
SW8389.401 Misc. Meter/Contr./New      585.64      SW9030.800 Emp. Benefit/Social Security  
SW8389.401 Misc. Meter/Contr./New      171.74      SW9060.800 Emp. Benefit/Health Ins.  
SW8340.200Transmission/Equipment      5100.00      SW8310.200 Water Admin./Equipment  
SW8340.200Transmission/Equipment      761.00      SW8340.400 Transmission/Contractual  
SW8340.200Transmission/Equipment      1884.00      SW9060.800 Emp. Benefit/Health Ins.

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

**RESOLUTION NO. 27:**

Supervisor Post offered the following:

**BIDS FOR TRANSFER STATION**

**RESOLVED**, the Town of Batavia will receive sealed bids for refuse removal at the Town of Batavia Transfer Station.

**FURTHER RESOLVED**, interested bidders may obtain service specifications from the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York 14020, or by contacting the Town Clerk's Office. All bids must be received by 10:00A.M. on Wednesday, February 10, 2010 at the Batavia Town Hall. Bids will be opened at that time. All bids must be accompanied by a non-collusion statement in order to be considered. The Town of Batavia reserves the right to reject any and all bids.

**Second by:** Deputy Supervisor Underhill

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

**NOTICE TO BIDDERS**

The Town of Batavia will receive sealed bids for refuse removal at the Town of Batavia Transfer Station.

Interested bidders may obtain service specifications from the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, 14020 or by contacting the Town Clerk's Office at 343-1729. All bids must be received by 10:00 A.M. on Wednesday, February 10, 2010 at the Batavia Town Hall. Bids will be opened at that time. All bids must be accompanied by a non-collusion statement in order to be considered.

The Town of Batavia reserves the right to reject any and all bids.

Dated: January 20, 2010

Teresa M. Morasco  
Batavia Town Clerk

**RESOLUTION NO. 28:**

Councilwoman Michalak offered the following:

**HEATING & AIR CONDITIONING  
PREVENTIVE MAINTENANCE INSPECTIONS CONTRACT**

**RESOLVED**, the Batavia Town Board hereby accepts Turnbull Heating & Air Conditioning's proposal to perform Heating and Air Conditioning Prevention Maintenance Inspections for Winter and Summer Operations at the Town Hall for one year (proposal attached); and

**BE IT FURTHER, RESOLVED** the Batavia Town Board hereby authorizes the Supervisor to execute the proposal.

**Second by:** Councilman Lang

**Ayes:** Michalak, Lang, Underhill, Gerace, Post

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 29:**

Councilman Gerace offered the following:

**BID AWARD  
SANITARY SEWER DISTRICT NO 1 IMPROVEMENTS**

**WHEREAS**, the Town of Batavia received bids January 14, 2010 at 3:00 P.M. for the construction of Sanitary Sewer District No.1 Improvements project; and

**WHEREAS**, Tom Greenauer Development Inc. of Elma, New York was the lowest responsible bidder at a cost of Eight Hundred, Forty Nine Thousand, Eight Hundred- Forty dollars (\$849,840.00) (bid sheet attached).

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**WHEREAS**, Erdman Anthony, project engineers, have recommended award of the construction contract to Tom Greenauer Development Inc. of Elma, New York in the amount of Eight Hundred Forty Nine Thousand Eight Hundred Forty dollars (\$849,840.00) (letter attached).

**NOW THEREFORE BE IT**

**RESOLVED**, the Batavia Town Board hereby awards the project to Tom Greenauer Development Inc. at a cost of Eight Hundred, Forty Nine Thousand, Eight Hundred -Forty dollars (\$849,840.00) for construction of Sanitary Sewer District No.1 Improvements contingent upon the insurance and bonding being in place as approved by the Town Attorney; and be it

**FURTHER RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the construction contract and issue the Notice to Proceed once the aforementioned conditions are met.

**Second by:** Councilwoman Michalak

**Ayes:** Gerace, Michalak, Lang, Underhill, Post

**APPROVED by unanimous vote (5-0)**

**Discussion-** The Supervisor reported that he and the Town Engineer meet with the Principal Officer from Tom Greenauer Development, Incorporated and they are ready and pleased to get underway with the project.

**RESOLUTION NO. 30:**

Councilman Lang offered the following:

**RESOLUTION TO ACCEPT DEDICATION OF A PARCEL  
TO BE ADDED TO VETERAN’S MEMORIAL DRIVE**

**WHEREAS**, COR Veteran’s Memorial Drive Company, LLC has received all necessary approvals from the Town of Batavia to construct a project known as the “Towne Center at Batavia”, and

**WHEREAS**, the vast majority of the construction pursuant to this project has been completed, and

**WHEREAS**, it has been determined that it is necessary for the Town to accept dedication of a small parcel to be added to Veteran’s Memorial Drive for the purpose of use as a deceleration lane, and

**WHEREAS**, COR Veteran’s Memorial Drive Company, LLC has offered for dedication this parcel, as more fully set forth in a proposed Deed, dated December 23, 2009.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York that it does hereby accept dedication of a parcel containing approximately 0.091 acre of land, as more fully set forth in a proposed Deed, dated December 23, 2009, by and between COR Veteran’s Memorial Drive Company, LLC to the Town of Batavia, and it is

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**FURTHER RESOLVED** that the Town Supervisor is hereby authorized and directed to execute all documents necessary to accept this dedication and to record the aforementioned Deed in the Genesee County Clerk's Office, and it is

**FURTHER RESOLVED** that the Town Clerk is hereby authorized and directed to complete the recording of this Deed and all necessary documents in the Genesee County Clerk's Office.

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

**RESOLUTION NO. 31:**

Deputy Supervisor Underhill offered the following:

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

**WHEREAS**, the Town of Batavia and the Town of LeRoy entered into a Code Enforcement Officer Agreement in December 2006; and

**WHEREAS**, the agreement addresses the need for each party to have its Codes enforced during periods when its Enforcement Officers are unavailable due to illness, vacation and other absences.

**NOW, THEREFORE, BE IT**

**RESOLVED**, pursuant to Article 5-G of the General Municipal Law, the Batavia Town Board wishes to re-enter into an agreement between the Town of Batavia and the Town of LeRoy for Code Enforcement coverage (agreement attached); and be it

**FURTHER RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement.

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

**AGREEMENT**

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by and between the **Town of LeRoy**, a municipal corporation with offices at 48 Main Street, LeRoy, NY 14482 ("LeRoy"), and the **Town of Batavia**, a municipal corporation with office at 3833 West Main Road, Batavia, NY 14020 ("Batavia"),

WHEREAS, both parties employ Code Enforcement Officers to enforce Zoning Code, Fire and Building Codes and other various codes and regulations, and

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WHEREAS, each party has identified a need to have its Codes enforced during periods when its Enforcement Officers are unavailable due to illness, vacation and other absences,

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

First: That LeRoy shall appoint the Code Enforcement Officer of the Town of Batavia as its Deputy Code Enforcement Officer.

Second: That Batavia shall appoint the Code Enforcement Officer of the Town of LeRoy as one of its Deputy Code Enforcement Officers.

Third: That each party shall establish an hourly rate at which it shall be reimbursed for such times as its Code Enforcement Officer is performing duties in the other Town and the Town receiving such services shall and hereby does agree to pay for such services at said rate. Each party shall also reimburse the other for any expenses paid by the other, including mileage for vehicle use by the officer while in the other party's Town, or reimburse the officer directly for the use of his personal vehicle in those instances when he uses it for either party's purposes with prior authorization.

Fourth: The rate shall include the hourly cost to the Town for the Code Enforcement Officer's wages, health insurance, retirement fund contribution, and any other fringe benefits, and shall not exceed such hourly costs.

Fifth: Each Town Supervisor shall notify the other Town Supervisor as soon as it becomes known that the services of the Deputy will be necessary, but in no event shall such notice be given less than 72 hours prior to the time when the Deputy is needed. In the event that one of the officers becomes injured, ill or otherwise suddenly incapacitated, the Town supplying the Deputy shall do so as soon as practical, but shall not be required to do so any sooner than 72 hours after notification. It is further understood that each municipality may have or currently has similar agreements with other municipalities and, therefore it is understood that the Deputy may not be available due to services being provided to those other municipalities. In this event the Deputy will be provided on a first come first serve basis.

Sixth: Each Town shall indemnify the other against any negligent act and shall name the other as an additional insured on any and all liability insurance policies. Each town shall be responsible for the acts of the deputy enforcement officer when working in its Town and the other shall not be so responsible.

Seventh: This agreement shall take effect upon the adoption of resolutions by Town Board agreeing hereto and the authorizing of the respective Supervisors to execute this Agreement and shall be in effect until December 31, 2009.

Eighth: This agreement may be terminated by either party by giving the other party ninety (90) days notice of intention to terminate and shall become effective on the first day of the month following the expiration of the ninety (90) day period.

Ninth: All notices shall be sent to the respective Towns at their addresses as set forth above.

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

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TOWN OF LEROY

TOWN OF BATAVIA

\_\_\_\_\_  
Tim McCulley, Supervisor

\_\_\_\_\_  
Gregory H. Post, Supervisor

STATE OF NEW YORK)  
COUNTY OF GENESEE) SS.

On the      day of \_\_\_\_\_, 2010 before me, the undersigned, a Notary Public in and for said State, personally appeared **Tim McCulley**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK)  
COUNTY OF GENESEE) SS.

On the      day of \_\_\_\_\_, 2010 before me, the undersigned, a Notary Public in and for said State, personally appeared **Gregory H. Post**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**RESOLUTION NO. 32:**

Supervisor Post offered the following:

**CROSS CONNECTION CONTROL PROGRAM MANAGEMENT AGREEMENT  
BETWEEN  
BACKFLOW PREVENTION CONSULTANTS AND THE TOWN OF BATAVIA**

**RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute an agreement between Backflow Prevention Consultants and the Town of Batavia for purposes of the continuation of the development and management of the Cross Connection Control Program, working as directed by the Town Engineer (agreement attached).

**Second by:** Councilman Gerace

**Ayes:** Post, Gerace, Lang, Underhill, Michalak

**APPROVED by unanimous vote (5-0)**

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**RESOLUTION NO. 33:**

Councilwoman Michalak offered the following:

**AUDIT SERVICES AGREEMENT –  
BETWEEN THE TOWN OF BATAVIA AND FREED MAXICK & BATTAGLIA, PC**

**RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to retain Freed Maxick & Battaglia, PC to perform auditing services for the Town and to execute the agreement between the Town of Batavia and Freed Maxick & Battaglia, PC (agreement attached).

**Second by:** Deputy Supervisor Underhill

**Ayes:** Michalak, Underhill, Gerace, Lang, Post

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 34:**

Councilman Gerace offered the following:

**RETAIN ATTORNEY  
KMART AND GEORGIA PACIFIC ASSESSMENT PROCEEDINGS**

**WHEREAS**, Notice of Petitions have been filed against the Assessor, the Board of Assessment Review, and the Town of Batavia by K-Mart Corporation #4741, Index #58816 and Georgia Pacific Corporation, Index #58806; and

**WHEREAS**, Kevin Earl, Attorney for the Town, recommends that the Town Board retain Bennett DiFilippo, & Kurtzhaltz, LLP to represent the Assessment Proceedings (recommendation attached).

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby retains Bennett, DiFilippo & Kurtzhaltz, LLP to represent the Town of Batavia for the aforementioned proceedings as outlined in their letter dated December 28, 2009 (attached).

**Second by:** Councilman Lang

**Ayes:** Gerace, Lang, Underhill, Michalak, Post

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 35:**

Councilman Lang offered the following:

**RESOLUTION TO ESTABLISH POSITION  
ASSISTANT TOWN ENGINEER**

**RESOLVED**, the Batavia Town Board hereby establishes the position of Assistant Town Engineer (MSD222 duties statement attached).

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

**RESOLUTION NO. 36:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION APPOINTING ASSISTANT TOWN ENGINEER**

**WHEREAS**, the Town of Batavia desires to appoint Thomas W. Lichtenthal to the position of Assistant Town Engineer in accordance with the terms and conditions set forth in the Offer Letter attached hereto and incorporated by reference herein; and

**WHEREAS**, Thomas W. Lichtenthal satisfies the requirements and qualifications of the position of Assistant Town Engineer; and

**WHEREAS**, it is anticipated that the appointment of Thomas W. Lichtenthal to the position of Assistant Town Engineer will most effectively ensure the provision of necessary services to the Town and its residents.

**NOW THEREFORE, BE IT**

**RESOLVED**, the Town Supervisor shall be and hereby is authorized to execute Offer Letter on behalf of the Town thereby extending to Thomas W. Lichtenthal a provisional offer of employment in the position of Assistant Town Engineer.

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

**RESOLUTION NO. 37:**

Supervisor Post offered the following:

**RESOLUTION TO ESTABLISH POSITION  
ENGINEER TECHNICIAN**

**RESOLVED**, the Batavia Town Board hereby establishes the position of Engineer Technician (MSD222 duties statement attached).

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

**RESOLUTION NO. 38:**

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Councilwoman Michalak offered the following:

**RESOLUTION APPOINTING ENGINEER TECHNICIAN**

**WHEREAS**, the Town of Batavia desires to appoint Jason Armbrewster to the position of Engineer Technician in accordance with the terms and conditions set forth in the Offer Letter attached hereto and incorporated by reference herein; and

**WHEREAS**, Jason Armbrewster satisfies the requirements and qualifications of the position of Engineer Technician; and

**WHEREAS**, it is anticipated that the appointment of Jason Armbrewster to the position of Engineer Technician will most effectively ensure the provision of necessary services to the Town and its residents.

**NOW THEREFORE, BE IT**

**RESOLVED**, the Town Supervisor shall be and hereby is authorized to execute Offer Letter on behalf of the Town thereby extending to Jason Armbrewster a provisional offer of employment in the position of Engineer Technician.

**Second by:** Councilman Gerace

**Ayes:** Michalak, Gerace, Lang, Underhill, Post

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 39:**

Councilman Gerace offered the following as amended:

**Amendment:** Motion Supervisor Post, second Councilman Lang to declare the equipment as surplus, with the exception of the three (3) computers (1 inventory #43, 1-Power Grafix and 1- s/n 184D100M0105968).

**Ayes:** Post, Lang, Underhill, Michalak, Gerace

**MOTION CARRIED by unanimous vote (5-0)**

**SURPLUS EQUIPMENT**

**WHEREAS**, the Highway Superintendent recommended to the Batavia Town Board to declare the following equipment as surplus:

- 1- 1981 Drott 45R Excavator – VIN# 6295160
- 1- 1998 Sander Western Swing Away 2000 (less mounting brackets)
- 1- Haier Water Cooler – Model WDN520155-01 –s/n 20070700944
- 4- File Cabinets (legal & letter size)
- 1 – Hewlett Packard Laserjet 1100 Printer

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**RESOLVED**, the Batavia Town Board hereby declares the aforementioned equipment to be surplus and authorizes the Highway Superintendent to sell it at the auction or place it out to bid.

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

**RESOLUTION NO. 40:**

Councilman Lang offered the following:

**AMENDING INCIDENT COMMAND SYSTEM ORGANIZATIONAL CHART  
CONTACT LIST  
EMERGENCY PREPAREDNESS PLAN**

**WHEREAS**, the Town of Batavia has an Emergency Preparedness Plan in place;

**WHEREAS**, the Incident Command System Organizational Chart Contact List of personnel names and phone numbers has been amended (attached).

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby adopts the Incident Command System Organizational Chart Contact List as amended; and be it

**FURTHER RESOLVED**, the Batavia Town Board hereby directs that the amended Incident Command System Organizational Chart Contact List be sent to all parties named on the Organizational Chart, along with the Emergency Preparedness Plan.

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

**RESOLUTION NO. 41:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO AUTHORIZE PAYMENT  
TO PROCURE PROPERTY OPTIONS**

**WHEREAS**, the Town of Batavia desires to obtain Option Agreements upon real property located in the Galloway and Harloff Road areas in the Town of Batavia to provide future recreational and other opportunities, and

**WHEREAS**, the Town wishes to hire Joseph Macaluso to assist the Town in this process based upon Mr. Macaluso's expertise as a former employee of the County of Genesee in the Real Property Tax Assessment Office.

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**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of Batavia, New York, hereby authorizes payment to Joseph Macaluso at the rate of \$50.00 per hour, which includes the personal use of his vehicle, for the purpose of providing services to the Town to obtain options for the purchase and/or for easements upon parcels of real property located in the Galloway and Harloff Road areas, as set forth in his letter, to the Town Engineer, dated January 5, 2010.

**Second by:** Councilman Gerace

**Ayes:** Underhill, Gerace, Lang, Michalak, Post

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 42:**

Supervisor Post offered the following:

**BILLBOARD LEASE AGREEMENT**

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

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

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

**WHEREAS**, the Town/Lamar Advertising Lease Agreement expired; and

**WHEREAS**, Lamar Advertising has requested another renewal.

**NOW, THEREFORE, BE IT RESOLVED** the Batavia Town Board hereby authorizes the renewal of the Town/Lamar Advertising Billboard Lease Agreement for a five (5) year period, from January 1, 2010 to December 31, 2014, payment to be made in five (5) installments with the first installment and all future installments due by the 15<sup>th</sup> day of January, in an amount of one thousand, four hundred dollars (\$1,400.00) or 20% of the net revenue for the prior year, whichever is greater, and directs the Town Supervisor to enter into and execute the same (agreement attached).

**Second by:** Councilman Lang

**Ayes:** Post, Lang, Underhill, Michalak, Gerace

**APPROVED by unanimous vote (5-0)**

**Abstract No. 13-2009 & 1-2010:** Motion Councilman Lang, second Councilman Gerace to authorize the Supervisor to pay the following vouchers:

13-2009	General	\$ 198,631.41
	Highway	6,032.28
	Sewer No. 1	1,196.89

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Sewer No. 2	1,545.04
Water	4,524.54
Pearl	90.39
Putnam/Shepard	59.61
Alexander/Pike	864.00
Rose	486.00
Wortendyke	<u>1,011.15</u>
<b>TOTAL</b>	<b>\$214,441.31</b>

1-2010	General	\$ 81,700.36
	Highway	5,827.80
	Sewer No. 1	971.37
	Sewer No. 2	776.20
	Water	3,051.10
	Alexander/Pike	984.00
	Rose	553.50
	Wortendyke	<u>76.75</u>
	<b>TOTAL</b>	<b>\$ 93,941.08</b>

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

**DEPARTMENT REPORTS:**

**Water/Sewer-** The Supervisor reported that there will be a bid opening February 3 for the Pike and Wortendyke Water Transmission Main. They are continuously working on funding for Water for a number of areas in the Town.

**Building Inspector** reported on the following:

**2010 Census** new construction report has been submitted.

**Eastman Savings & Loan** (ESL) is proposing to locate in one of the out buildings at the Towne Center.

**Supervisor's Report:**

**Status Report** on expenditures and revenues is available for the Board's review. The investment sheets will be entered into the minute book. The monies are invested in CD's and are paying a rate of .23%.

**Special Town Meeting** will be held Wednesday, January 27, 2010 immediately following the Public Hearing for the Community Development Block Grant at 5:45 P.M.

**Park Planning & Design Workshop-** There will be a Planning & Design Workshop for the Galloway Road Park, on Wednesday, January 27, 2010 from 6:30 P.M. to 8:30 P.M. The public is welcome and encouraged to attend.

**GAM meeting** is tomorrow at 7:00 P.M., hosted by the Town of Stafford at the Stafford Town Hall on Route 237.

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**LEADERSHIP GENESEE-** Motion Councilman Gerace, second Councilman Lang authorizing Dan Underhill to participate in the 2010 Leadership Genesee program at a cost of \$1,800.00.

**Ayes:** Gerace, Lang, Underhill, Michalak, Post

**MOTION CARRIED by unanimous vote (5-0)**

**COMMUNICATIONS:**

**The Town Clerk reported on the following:**

**December Town Clerk monthly report collected** a total of \$3,757.70, remitted \$3,347.16 to the Supervisor for the Local Share.

**Records Management-** The Town Clerk and Deputy Town Clerk will be working on Saturday, January 23 to dedicate 4 to 6 hours on the records management to purge and add records to the inventory.

**Tax Collection-** Busy collecting taxes.

**Open Burning Law-** Received acknowledgement letters from State Senator Michael Ranzenhofer, Assemblyman Steve Hawley and Governor David Paterson that they are in receipt of the Town's resolution to support rescinding NYSDEC new regulations concerning open burning.

**Assemblyman Hawley's Outreach Program-** Assemblyman Hawley is continuing his Community Outreach Program in 2010.

**Governmental Accounting Training-** The Office of the State Comptroller is offering Governmental Accounting Training at the Town of Aurora, April 20 thru April 22 (Basic Accounting School and August 31 thru September 2 (Advanced Accounting School).

**Genesee Community College-** Received a letter from GCC with concerns about pedestrian and bicycle safety along the Batavia-Stafford Townline Road between College Village and Route 33 intersection.

**NYS Thruway-Wind Turbine Project-** Received a copy of a correspondence the Genesee County Manager received from the NYS Thruway Authority regarding a potential wind turbine project along the Thruway corridor.

**COMMITTEE REPORTS:**

**Parks-**Councilman Gerace reported that there will be a Planning and Design Workshop on Wednesday, January 27, 2010 on the proposed Galloway Road Park. The Supervisor would like the committee to check into the excise tax from firearms to be reinvested in outdoor recreation. Legislature Day was held in Albany recently with advocate groups, assemblymen and senators and apparently there are accumulated dollars from firearms excise tax that is earmarked for outdoor recreation. Gary Diegelman, ZBA Chair stated that can recycling is another fund that is for reinvestment.

Building Inspector Worthington commented that there is a company located in the Town to keep in mind for the lighting design work. Mr. Worthington will give the committee the contact information.

**OLD/NEW BUSINESS:**

The Supervisor extended his congratulations to Councilman Lang on his 30<sup>th</sup> grandchild that arrived today!!!!

**ADJOURNMENT:**

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Motion Councilman Lang, second Councilman Gerace to adjourn the Regular Town Board Meeting at 8:19 P.M.

**Ayes:** Lang, Gerace, Underhill, Michalak, Post

**MOTION CARRIED by unanimous vote (5-0)**

Respectfully submitted,

Teresa M. Morasco  
Town Clerk