

**OCTOBER 19, 2011  
REGULAR TOWN BOARD MEETING**

**Town Hall**

**7:00 P.M.**

Greg Post, Supervisor led the pledge to the flag.

**Roll Call**

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

**Others**

**Present:** Town Clerk Morasco  
Howard Owens, The Batavian Reporter

The Supervisor called the meeting to order at 7:10 P.M.

**September 21, 2011 Regular Town Board Meeting:** Motion Councilman Lang, second Councilman Gerace to approve the minutes as written.

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

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

**October 5, 2011 Special Town Board Meeting:** Motion Councilman Gerace, second Councilwoman Michalak to approve the minutes as written.

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

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

**RESOLUTION NO. 147:**

Councilman Lang offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW # 1 OF 2011  
AND TO SCHEDULE A PUBLIC HEARING**

**WHEREAS**, the Town Board of the Town of Batavia, New York desires to consider adopting legislation to override the limit on the amount of real property taxes that may be levied by the Town of Batavia pursuant to General Municipal Law § 3-c, and to allow the Town of Batavia to adopt a town budget for fiscal year 2012 that requires a real property tax levy in excess of the tax levy limit, also known as Town of Batavia Local Law #1 of 2011.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York that proposed Local Law #1 of 2011 entitled "A Local Law to Override the Tax Levy Limit Established in General Municipal Law § 3-c", which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, be and the same hereby is introduced for adoption; and

**BE IT FURTHER RESOLVED** that said proposed Local Law be laid upon the desks of the members of this Town Board on this date and remain there and a copy thereof be kept on file in the

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office of the Town Clerk until November 9, 2011, and that a public hearing be held before this Town Board on the 9<sup>th</sup> day of November, 2011, at 6:30 p.m. at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, on the advisability of enacting said proposed Local Law; and

**BE IT FURTHER RESOLVED** that a copy of said proposed Local Law be mailed to each member of the Town Board not in attendance at this meeting in a postpaid, properly addressed and securely closed envelope in a post box within the Town of Batavia, New York not less than ten (10) calendar days, exclusive of Sunday, prior to the date of said public hearing; and

**BE IT FURTHER RESOLVED** that the Town Clerk shall cause notice of said public hearing to be published once in The Daily News at least five (5) days prior to the date of said public hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk's Office.

**Second by:** Councilman Gerace

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

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

**Discussion-**Supervisor Post stated the introduction of the Local Law to override the 2% tax cap is against Albany and no relief of the New York State mandates. There is no intention to allow a tax increase. The Town of Batavia has been operating lean and efficiently, maintaining a zero tax rate and will maintain a zero rate for the foreseeable future.

**NOTICE OF PUBLIC HEARING BY THE TOWN BOARD  
OF THE TOWN OF BATAVIA, NEW YORK  
TO CONSIDER ADOPTING A PROPOSED LOCAL LAW**

**PUBLIC NOTICE** is hereby given that there has been presented to the Town Board of the Town of Batavia, New York on the 19<sup>th</sup> day of October, 2011, proposed Local Law #1 of 2011 entitled "A Local Law to Override the Tax Levy Limit Established in General Municipal Law § 3-c". Said Local Law will allow the Town of Batavia to override the limit on the amount of real property taxes that may be levied, pursuant to General Municipal Law § 3-c, and to allow the Town of Batavia to adopt a town budget for fiscal year 2012 that requires a real property tax levy in excess of the tax levy limit.

**PLEASE TAKE FURTHER NOTICE** that on 9<sup>th</sup> day of November, 2011, at 6:30 o'clock in the afternoon of that day the Town Board of the Town of Batavia, New York will conduct a public hearing at the Batavia Town Hall located at 3833 West Main Street Road, in the Town of Batavia, New York, for the purpose of considering the advisability of enacting said proposed Local Law, at which time and place all persons interested will be heard.

A copy of said proposed Local Law is on file at the office of the Batavia Town Clerk, 3833 West Main Street Road, Batavia, New York and is open for inspection during regular Office hours.

Dated: Batavia, New York  
October 19, 2011

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Teresa M. Morasco, Town Clerk  
Town of Batavia, New York

**RESOLUTION NO. 148:**

Deputy Supervisor Underhill offered the following:

**CALLING FOR PUBLIC HEARING  
ON THE 2012 TOWN BUDGET**

**WHEREAS**, the Town Board of the Town of Batavia is in the process of finalizing the preparation of the Preliminary 2012 Town Budget;

**WHEREAS**, said 2012 Preliminary Town Budget will be filed with the Town Clerk no later than October 31, 2011;

**RESOLVED**, the Batavia Town Board hereby authorizes and orders that a Public Hearing on the Preliminary Town Budget for 2012 be conducted at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, beginning at 6:50 P.M. on Wednesday, November 9, 2011, 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 Lang

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

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

**NOTICE OF PUBLIC HEARING  
ON THE 2012 TOWN BUDGET**

**PUBLIC NOTICE IS HEREBY GIVEN** that the Preliminary Budget of the Town of Batavia for fiscal year 2012 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 6:50 P.M. on Wednesday, November 9, 2011 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:**

|                              |        |
|------------------------------|--------|
| <b>Supervisor: \$</b>        | 30,000 |
| <b>Deputy Supervisor: \$</b> | 15,000 |

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|                                     |        |
|-------------------------------------|--------|
| <b>Councilmen (3): \$</b>           | 10,000 |
| <b>Town Clerk/Tax Collector: \$</b> | 48,218 |
| <b>Highway Superintendent: \$</b>   | 15,450 |
| <b>Town Justices (2): \$</b>        | 22,080 |

The foregoing by order of the Batavia Town Board.

**Dated:** October 19, 2011

Teresa M. Morasco  
Batavia Town Clerk

**RESOLUTION NO. 149:**

Supervisor Post offered the following:

**CALLING A PUBLIC HEARING  
SEWER RENTS – MAY 2012 TO FEBRUARY 2013**

**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 2012 to February 2013 are Sewer District No. 1 - \$5.46/1,000 gallons, Sewer District No. 2 - \$5.46/1,000 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 2012 to February 2013 be conducted at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, beginning at 6:40 P.M. on Wednesday, November 9, 2011, 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 2012 – FEBRUARY 2013**

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**PUBLIC NOTICE IS HEREBY GIVEN** that a public hearing will be held November 9, 2011 at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, at 6:40 P.M. for the purpose of imposing Sewer Rents. The proposed sewer rents for May 2012 to February 2013 are, Sewer District No. 1 at \$5.46/1,000 gallons and Sewer District No. 2 at \$5.46/1,000 gallons.

The foregoing by order of the Batavia Town Board.

**Dated:** October 19, 2011

Teresa M. Morasco  
Batavia Town Clerk

**RESOLUTION NO. 150:**

Councilwoman Michalak offered the following:

**CALLING A PUBLIC HEARING  
WATER RATE – MAY 2012 TO FEBRUARY 2013**

**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 2012 to February 2013 is \$4.57/1,000 gallons; 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 2012 to February 2013 be conducted at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, beginning at 6:45 P.M. on Wednesday, November 9, 2011, 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:** Deputy Supervisor Underhill

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

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

**NOTICE OF PUBLIC HEARING  
WATER RATE – MAY 2012 – FEBRUARY 2013**

**PUBLIC NOTICE IS HEREBY GIVEN** that a public hearing will be held November 9, 2011 at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, at 6:45 P.M. for the purpose of imposing water rates. The proposed water rate for May 2012 to February 2013 is

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\$4.57/1,000 gallons.

The foregoing by order of the Batavia Town Board.

**Dated:** October 19, 2011

Teresa M. Morasco  
Batavia Town Clerk

**RESOLUTION NO. 151:**

Councilman Gerace offered the following:

**LEVYING UNPAID WATER AND SEWER  
CHARGES AGAINST 2012 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 14, 2011; 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 \$56,898.63 or as may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2012 tax warrant.

**Second by:** Deputy Supervisor Underhill

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

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

**RESOLUTION NO. 152:**

Councilman Lang offered the following:

**RESOLUTION AUTHORIZING APPLICATION FOR FUNDS FROM THE  
2011 JUSTICE COURT ASSISTANCE PROGRAM**

**RESOLVED**, the Batavia Town Board hereby authorizes Town Justices Michael Cleveland and/or Thomas Williams to file an application for funding from the New York State Office of Court Administration 2011 Justice Court Assistance Program for equipment and/or office supplies for the court.

**Second by:** Councilman Gerace

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

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

**Discussion-** The Supervisor had a conversation with Justice Cleveland and he will be considering an application for what we can benefit from.

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**SUSPEND THE RULES**-Motion Deputy Supervisor Underhill, second Councilman Gerace to suspend the rules to introduce an additional resolution.

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

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

**RESOLUTION NO. 153:**

Deputy Supervisor Underhill offered the following:

**AUTHORIZATION TO HOLD A REQUISITE PUBLIC HEARING TO SUPPORT AN  
APPLICATION OR APPLICATIONS TO NEW YORK STATE HOMES AND COMMUNITY  
RENEWAL FOR SMALL CITIES FUNDING**

**WHEREAS**, the Town of Batavia is contemplating the submission of an application or applications for funding from New York State Homes and Community Renewal (“HCR”) to assist in the implementation of one or more economic development projects in the Town, and

**WHEREAS**, the submission of such applications requires that a minimum of two public hearings be held to obtain citizen comments regarding community and economic development needs in the Town and to comment on any specific project proposals,

**WHEREAS**, the Town of Batavia has held a public hearing on March 16, 2011 to obtain citizen comments regarding community and economic development needs in the Town, and be it further

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town of Batavia shall hold a public hearing on October 28, 2011 at 4:00 P.M. to obtain citizen comments regarding specific applications for funding to be submitted to HCR.

**Second by:** Councilman Gerace

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

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

**LEGAL NOTICE  
NOTICE OF PUBLIC HEARING  
COMMUNITY DEVELOPMENT BLOCK GRANT**

The Town of Batavia has scheduled a public hearing to be held on Friday, October 28, 2011. The hearing will start at 4pm at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York 14020. Written comments are invited and will be accepted upon delivery to 3833 West Main Street Road, Batavia, NY 14020 prior to the hearing.

The hearing will allow citizens to comment on specific projects for which Community Development Block Grant (CDBG) funding will be sought from New York Homes and Community Renewal.

Persons with disabilities who require special accommodations must notify the Town Clerk with a

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request for specific accommodations at least 48 hours prior to the Public Hearing.

Dated: October 19, 2011

Gregory H. Post  
Supervisor  
Town of Batavia

**Abstract No. 10-2011:** Motion Councilman Gerace, second Deputy Supervisor Underhill to authorize the Supervisor to pay the following vouchers:

|              |                     |
|--------------|---------------------|
| General      | \$73,975.29         |
| Highway      | 182,655.30          |
| Sewer No. 1  | 1,569.39            |
| Sewer No. 2  | 6,144.91            |
| Water        | 156,843.82          |
| Ellicott     | 645.00              |
| Saile Drive  | 13,230.00           |
|              |                     |
| <b>Total</b> | <b>\$435,063.71</b> |

Check numbers 16293 thru 16365, 16367, Online \$1,376.64, ACH \$2,992.50

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

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

**DEPARTMENT REPORTS:**

**Supervisor reported for the following departments:**

**Highway-** Has completed paving operations

**Water-** Meter reading has been completed. The Radio Read system has resulted in saving of a two week time period. This has allowed personnel to attend to other repairs. The water loss has been reduced.

The Town Board is continuing to work with departments on the 2012 Budget.

**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 General and Reserve Funds are invested in a CD's paying a rate of .35% and .21%.

**COURT CLERK TRAINING-**Motion by Deputy Supervisor Underhill, second by Councilwoman Michalak authorizing Sarah Sauka and Melissa Mason to attend the Court Clerk Training at the Erie County Courthouse on November 4, 2011. There is no cost for this training. A Town Vehicle will be used.

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

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

**COMMUNICATIONS:**

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

**September Town Clerk monthly report collected** a total of \$37,611.76 remitted \$30,416.52 to the Supervisor for the Local Share.

**Genesee County ARC-** Councilwoman Michalak, Hiedi Librock, Secretary to the Supervisor and I attended the Annual Employer Appreciation Breakfast Tuesday. It's very rewarding to know the Town is helping to make a difference in these individual's lives. The Town contracts with ARC for janitorial services.

**NEW BUSINESS: across of street contractor for Batavia Motel.**

**COMMITTEE REPORTS:**

**Ag & Farmland-** Deputy Supervisor Underhill reported that the Ag & Farmland Protection committee met today and will be meeting with the Genesee County Ag and Planning Board on November 1 to present an update of the Ag & Farmland Protection Plan.

**Cable-**Councilwoman Michalak reported that she is continuing to work with Time Warner on the Franchise Agreement to expand the service areas. There is a large concern from constituents for service.

**Parks** – Councilman Gerace reported they are continuing to try for grant funding. He encourages citizens of the community to send letters of support for parks and recreation funding. This will help the Town to get the grant funding.

October 29 there is an event at the Batavia Sports Park on Bank Street Road.

**ADJOURNMENT:**

Motion Deputy Supervisor Underhill, second Councilman Lang to adjourn the Regular Town Board Meeting at 7:38P.M.

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

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

Respectfully submitted,

Teresa M. Morasco  
Town Clerk