

**NOVEMBER 16, 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
Building Inspector Lang

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

October 19, 2011 Regular Town Board Meeting: Motion Deputy Supervisor Underhill, second Councilman Lang to approve the minutes as written.

Ayes: Underhill, Lang, Michalak, Gerace, Post

MOTION CARRIED by unanimous vote (5-0)

October 28, 2011 Public Hearing-NYS Homes & Community Renewal (“HCR”) Funding: Motion Councilwoman Michalak, second Deputy Supervisor Underhill to approve the minutes as written.

Ayes: Michalak, Underhill, Gerace, Lang, Post

MOTION CARRIED by unanimous vote (5-0)

November 9, 2011 Public Hearing- Local law #1 of 2011-2% Tax Cap Override: 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)

November 9, 2011 Public Hearing- Sewer Rents, November 9, 2011 Public Hearing- Water Rates, and November 9, 2011 Public Hearing- 2012 Town Budget: 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. 154:

Councilman Lang offered the following:

RESOLUTION ADOPTING LOCAL LAW # 1 OF 2011

WHEREAS, proposed Local Law #1 of 2011 of the Town of Batavia entitled “A Local Law to Override the Tax Levy Limit Established in General Municipal Law § 3-c”, which proposed Local Law in its final form was presented to the Town Board at the meeting held on October 19, 2011, 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

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meeting; and

WHEREAS, a public hearing on the advisability of enacting said proposed Local Law was held on November 9, 2011, 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 2011 is in the best interest of the Town of Batavia, New York,

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Batavia, New York that said proposed Local Law #1 of 2011 be and the same hereby is adopted; and

BE IT FURTHER RESOLVED, that a certified copy of said Local Law #1 of 2011 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. 155:

Deputy Supervisor Underhill offered the following:

TOWN OF BATAVIA SEWER RENTS – 2012

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, in Sewer District No. 1 the sewer rents for 2012 has been set at five dollars and forty-six cents (\$5.46) per 1000 gallons;

WHEREAS, in Sewer District No. 2 the sewer rents for 2012 has been set at five dollars and forty-six cents (\$5.46) per 1000 gallons;

WHEREAS, as required by law and in conjunction with the public hearing held November 9, 2011 for the 2012 Town Budget, these rates were entered in and made a part of the record.

RESOLVED, the Batavia Town Board hereby authorizes the imposition of the aforementioned sewer rents in Sewer Districts No. 1 and No. 2 for one (1) year beginning January 1, 2012.

RESOLVED, the sewer rents are to be paid quarterly in the months of May, August and

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November, 2012 and February, 2013.

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

RESOLUTION NO. 156:

Supervisor Post offered the following:

TOWN OF BATAVIA WATER RATES – 2012

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, as a courtesy to the consumers, the Town Board held a public hearing on November 9, 2011 for the establishment of the 2012 water rates; and

WHEREAS, the water rate for May 2012 to February 2013 is set at \$4.57/1,000; and

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the imposition of the aforementioned water rates for one (1) year beginning January 1, 2012.

RESOLVED, the water rates are to be paid quarterly in the months of May, August and November, 2012 and February, 2013.

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

RESOLUTION NO. 157:

Councilwoman Michalak offered the following:

ADOPTION OF 2012 TOWN ANNUAL BUDGET

WHEREAS, the Town of Batavia Chief Fiscal Officer prepared a Tentative Budget for review by the Batavia Town Board, and

WHEREAS, the Town Board met in Budget sessions among themselves and with Town Employees in the formulation of the Preliminary Budget, after which a Public Hearing was held on November 9, 2011 for all interested parties to be heard.

RESOLVED, the Batavia Town Board hereby adopts the Revised Preliminary Town Budget as

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the 2012 Annual Budget of the Town of Batavia.

Second by: Councilman Gerace

Ayes: Michalak, Gerace, Underhill, Post

Abstain: Lang

APPROVED (4-eyes, 1 abstain)

RESOLUTION NO. 158:

Councilman Gerace offered the following:

ORDER CALLING A PUBLIC HEARING
ON THE FIRE DEPARTMENT CONTRACT

RESOLVED, that this Town Board hereby schedules a public hearing on the advisability of contracting with the Town of Batavia Fire Department, Inc. for fire protection to be provided to the Town of Batavia Fire Protection District by the Town of Batavia Fire Department, Inc., and that not less than ten (10) days notice of said hearing be published in the Daily News and posted on the signboard of the Town; and be it

FURTHER RESOLVED, that said hearing be scheduled for December 21, 2011 at the Batavia Town Hall at 6:55 o'clock p.m.

Second by: Councilman Lang

Ayes: Gerace, Lang, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

Discussion- The Supervisor commended the Fire Department.

NOTICE FOR PUBLIC HEARING ON
FIRE PROTECTION CONTRACT FOR 2012

Public Notice is hereby given, that a Public Hearing will be held Wednesday, December 21, 2011, by the Town Board of the Town of Batavia, Genesee County, New York, at the Batavia Town Hall located at 3833 West Main Street Road beginning at 6:55 P.M. of that day and for the purpose of considering contracting with the Town of Batavia Fire Department, Inc. for fire protection services to be furnished by the Town of Batavia Fire Department, Inc to the Fire Department District established in the Town of Batavia and known as the "Town of Batavia Fire Protection District" upon the following general terms, to wit:

1. The Town of Batavia Fire Department, Inc. shall answer and attend upon all calls in said District;
2. The Town of Batavia Fire Department Inc., shall purchase and maintain such property, crime, dishonesty bond and liability insurance as it deems prudent to protect its interests. Such insurance shall include Automobile Liability, General Liability naming the Town of Batavia, its agents and employees as Additional Insured's, Contractual Liability for this Contract and

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should include Ambulance Attendants Professional Liability, Volunteer Fire Department Errors and Omissions Liability and Liquor Law Liability coverage's. Liability limits of at least \$1,000,000.00 each occurrence, claim or incident are recommended but not required. A Certificate of all liability insurances, providing the Town with at least 30 days written notice of cancellation or nonrenewable, shall be furnished to the Town Attorney, Town Hall, 3833 West Main Street Road, Batavia, New York, 14020.

The Town of Batavia Fire Department, Inc. shall also indemnify and hold harmless the Town of Batavia, its agents and employees from all claims, suits, loss, damages, injuries, liability, cost and expenses arising from the services provided for in this contract and from the activities of the Fire District, its officers, employees and volunteers to the extent this provision is insured by the Town of Batavia Fire District.

3. The Town of Batavia Fire Department, Inc. shall maintain public liability and property damage insurance policies for the benefit of said District and the Town of Batavia, and shall hold said District and Town harmless for losses not covered by insurance;
4. The Town of Batavia Fire Department, Inc. shall be responsible for loss or damage sustained in fire apparatus or other equipment while attending fires in said District;
5. The Town of Batavia and the Town of Batavia Fire Protection District shall pay or provide insurance coverage for authorized items;
6. The Town of Batavia Fire Department, Inc. shall participate in the Genesee County Mutual Aid Plan and reserves certain rights pertaining to said participation;
7. The Town of Batavia Fire Department, Inc. shall reimburse the Town of Batavia should its equipment not be usable;
8. For such services the Town of Batavia Fire Department shall receive the yearly sum of Seven Hundred Thirty-Four Thousand Five Hundred Twenty and 00/100 Dollars (\$734,520.00).
9. The Town of Batavia shall plow and provide routine maintenance to the driveway and parking area of the Fire Department's Fire Hall;
10. The Town of Batavia Fire Department, Inc. shall provide financial data and records to the Town of Batavia.
11. The contract shall run for one (1) year from January 1, 2012 and shall expire on December 31, 2012

All persons interested in the matter will be heard at such time and place specified above.

Dated: November 16, 2011

Teresa M. Morasco
Town Clerk
Town of Batavia

RESOLUTION NO. 159:

Councilman Lang offered the following:

**AUTHORIZATION TO EXECUTE AGREEMENT BETWEEN THE NEWYORK STATE
DEPARTMENT OF MOTOR VEHICLES FOR USAGE OF THE TOWN HALL**

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the

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agreement, (attached) between New York State Department of Motor Vehicles and the Town of Batavia for the use of a room at the Town Hall for the purpose of Motor Vehicle Hearings.

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

RESOLUTION NO. 160:

Deputy Supervisor Underhill offered the following:

CALLING FOR PUBLIC HEARING
AGRICULTURAL & FARMLAND PROTECTION PLAN

WHEREAS, the Town of Batavia Farmland Protection Plan Committee has performed a study and created a Town of Batavia Agricultural Farmland Protection Plan; and

WHEREAS, the first draft of the Agricultural & Farmland Protection Plan was completed and filed in the Town Clerk's Office and a public hearing was held on January 20, 2010; and

WHEREAS, after said public hearing at which all interested persons were heard, the Farmland Protection Committee revised the Agricultural Farmland Protection Plan, and

WHEREAS, the revised draft of the Agricultural & Farmland Protection Plan was completed and filed in the Town Clerk's Office and a public hearing was held on April 21, 2010; and

WHEREAS, after said public hearing at which all interested persons were heard, the Farmland Protection Committee again revised the Agricultural Farmland Protection Plan, and

WHEREAS, the new revised Agricultural & Farmland Protection Plan was completed and filed in the Town Clerk's Office.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes and orders that a third Public Hearing on the Proposed Revised Agricultural & Farmland Protection Plan dated September 1, 2011 be conducted at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, beginning at 6:30 P.M. on Wednesday, December 21, 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 Gerace
Ayes: Underhill, Gerace, Lang, Michalak, Post
APPROVED by unanimous vote (5-0)

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Discussion- The Supervisor thanked Deputy Supervisor Underhill for all the time spent on this committee to create this plan.

**NOTICE OF PUBLIC HEARING
AGRICULTURAL & FARMLAND PROTECTION PLAN**

PUBLIC NOTICE IS HEREBY GIVEN that the new draft revised copy of the Agricultural and Farmland Protection Plan is complete and has been filed in the Office of the Town Clerk of the Town of Batavia, where it is available for public inspection during regular business hours and via the Town of Batavia Website at www.townofbatavia.com.

Notice is also given that the Town Board of the Town of Batavia will hold a Public Hearing on the Agricultural Farmland Protection Plan at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York beginning at 6:30 P.M. on Wednesday, December 21, 2011 at which time and place any person will be heard.

By order of the Batavia Town Board.

Dated: November 16, 2011

Teresa M. Morasco
Batavia Town Clerk

RESOLUTION NO. 161:

Supervisor Post offered the following:

**HEALTH INSURANCE FOR
NON-BARGAINING EMPLOYEES**

WHEREAS, the Town of Batavia currently provides Health Insurance to the non-bargaining employees through Univera Healthcare; and

WHEREAS, the new rates for Health Insurance from Univera Healthcare are: single plan is \$242.58, two person plan is \$509.42, employee & child is \$455.54 and family plan is \$759.26 per month; and

WHEREAS, as of December 1 of each year the rates are subject to change; and

WHEREAS, the Town Board of the Town of Batavia supports continuing to have a Health Reimbursement Arrangement (HRA) for employees medical co-pays; and

WHEREAS, the new HRA will be through P&A Group, Buffalo, New York rather than EBS Benefit Solutions, Fairport, New York.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute any necessary documents with Univera Healthcare and the attached Plan Installation Questionnaire Agreement between

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P&A and the Town of Batavia.

Second by: Councilman Lang

Ayes: Post, Lang, Underhill, Michalak, Gerace

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 162:

Councilwoman Michalak offered the following:

MEMORIALIZATION-MANDATE REFORM

WHEREAS, The task force that Governor Andrew Cuomo has established to evaluate and recommend mandate relief in New York State provided no relief through the recently passed budget; and

WHEREAS, The Town of Batavia Town Board embraces the Governors call to reduce State mandates that impact many aspects of Town government; and

WHEREAS, as a result of being lobbied by our constituents to act on their behalf and urge continued efforts to implement meaningful mandate reform.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board requests Governor Andrew Cuomo, the NYS Senate, and the NYS Assembly to take immediate action on suggested Mandate Relief items and work with NYSAC to reform them to bring the relief necessary; and be it further

RESOLVED, That the Batavia Town Board requests that the New York State Government implement mandate relief to local governments now; and be it further

RESOLVED, That copies of this resolution be sent to Governor Andrew Cuomo, Senator Michael Ranzenhofer, Assemblyman Steve Hawley, Assemblyman Dan Burling, Senate Majority Leader Dean Skelos, Senate Minority Leader Malcolm Smith, NYS Assembly Speaker Sheldon Silver and Assembly Minority Leader Brian M. Kolb, New York State Association of Counties, Inter-County Association of Western New York, and Genesee Association of Municipalities.

Second by: Councilman Gerace

Ayes: Michalak, Gerace, Lang, Underhill, Post

APPROVED by unanimous vote (5-0)

Discussion- The Supervisor suggested a petition at the Town Hall for constituents to sign for NYS Mandate Reform.

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

Ayes: Gerace, Underhill, Michalak, Lang, Post

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MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 163:

Councilman Gerace offered the following:

SURPLUS ITEMS –TRADE WITH CITY OF BATAVIA

WHEREAS, the Town of Batavia Highway Department has a used 14ft. one way plow for a dump truck that the Town no longer needs and the City of Batavia has two chip boxes that they no longer need. The items are similar in value, therefore the two entities would like to trade the equipment at no cost.

NOW THEREFORE BE IT,

RESOLVED, the Batavia Town Board hereby declares the 14ft. one way plow as surplus equipment, and be it

FURTHER RESOLVED, hereby authorizes the Highway Superintendent to trade the item listed above with the City of Batavia at no cost, contingent upon written approval from the City of Batavia.

Second by: Councilwoman Michalak

Ayes: Gerace, Michalak, Lang, Underhill, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 164:

Councilman Lang offered the following:

**COR PROPERTY SERVICES LLC
TOWNE CENTER
FIREWORKS PERMIT**

WHEREAS, COR Property Services LLC, 1830 Lemoyne Avenue, Syracuse, New York wishes to sponsor a Fireworks Display by Young Explosives Corporation on November 25, 2011 at the Towne Center, 4300 Veterans Memorial Drive (application attached); and

WHEREAS, a permit from the Town of Batavia is required.

RESOLVED, the Batavia Town Board hereby authorizes the granting of a Fireworks Permit to COR Property Services LLC for Friday, November 25, 2011.

Second by: Councilman Deputy Supervisor Underhill

Nay:Lang, Michalak, Gerace,

Ayes: Underhill, Post

DEFEATED

Discussion- Councilwoman Michalak and Councilman Gerace expressed that they did not feel it was a

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good idea. It is Black Friday, with a lot of traffic in the area, and it would not be a good idea to have the road closed. This would have a negative effect for emergency vehicles. The Town Board members did discuss this with the Town Fire Department.

RESOLUTION NO. 165:

Deputy Supervisor Underhill offered the following:

**AUTHORIZING BUDGET MODIFICATION FOR 2011
UNAPPROPRIATED FUNDS TO HIGHWAY EQUIPMENT RESERVE**

RESOLVED, the Batavia Town Board hereby authorizes \$270,000 from the Un-appropriated Fund Balance to line item Highway Equipment Reserve Fund.

Second by: Councilman Lang

Ayes: Underhill, Lang, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 166:

Supervisor Post offered the following:

**CONTRACT BETWEEN ATLANTIC TESTING LABORATORIES AND THE TOWN OF
BATAVIA FOR AIR MONITORING SERVICES AT THE BATAVIA MOTEL ASBESTOS
ABATEMENT AND DEMOLITION PROJECT**

WHEREAS, the Town of Batavia acquired the Batavia Motel property and 3 buildings located at 3768 West Main Street for the purpose of providing park land; and

WHEREAS, the Town of Batavia contracted with Clark Patterson Lee to complete an Asbestos Investigation on the buildings. Two of the buildings were found to have asbestos containing materials in the buildings which must be abated prior to their demolition; and

WHEREAS, per New York State Law the asbestos abatement and demolition of the buildings requires that air monitoring be completed during the demolition process. The Town of Batavia Engineering Department recommends that Atlantic Testing Laboratories be awarded the air monitoring contract at a not to exceed cost of \$5,401.00, and

NOW THEREFORE BE IT,

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the attached contact between Atlantic Testing Laboratories and the Town of Batavia for air monitoring during the asbestos abatement and demolition of the Batavia Motel located at 3768 West Street Road at a cost in accordance with exhibit B fee schedule and at a not to exceed amount of five thousand four hundred and one dollars (\$5,401.00).

Second by: Deputy Supervisor Underhill

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Ayes: Post, Underhill, Michalak, Gerace, Lang

APPROVED by unanimous vote (5-0)

Abstract No. 11-2011: Motion Councilman Gerace, second Deputy Supervisor Underhill to authorize the Supervisor to pay the following vouchers:

General	\$425,706.08
Highway	109,808.61
Sewer No. 1	28,701.59
Sewer No. 2	55,870.37
Water	33,951.43
Ellicott/Townline	450.00
Total	\$654,488.08

Check numbers 16368 thru 16417, 16419 thru 16454, online \$204.01, ACH \$7,547.50

Ayes: Gerace, Underhill, Michalak, Lang, Post

MOTION CARRIED by unanimous vote (5-0)

DEPARTMENT REPORTS:

Building Inspector reported on the following:

Project Wave- Received approvals from the County Planning, Town Zoning Board of Appeals and from Town Planning Board to move forward with the Project Wave development. Earth work and clearing is in progress.

The Supervisor reported for the following departments:

Water/Wastewater- Continuing to work on the billing software issues.

Highway- Town Highway is promoting a shoulder repair program.

Developing a blizzard plan to attend to extraordinary conditions

The Highway committee meets weekly

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%.

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 .18%.

GAM- Next GAM Meeting will be tomorrow evening at Alli's Cones and Dogs on North Main Street in the Village of Oakfield, hosted by the Town of Oakfield at 7:00 P.M.

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Special Town Board Meeting November 23, 2011 at 5:00 P.M. for approval of the Town Insurance Policies and other matters that may need to be addressed before the December meeting.

\$250,000 2012 COUNTY TAX LEVY- Motion by Deputy Supervisor Underhill, second by Councilman Gerace authorizing \$250,000 to be sent to the Genesee County Treasurer to reduce the 2012 County Tax Levy for Town of Batavia property owners.

Ayes: Underhill, Gerace, Lang, Michalak, Post

MOTION CARRIED by unanimous vote (5-0)

GFLRPC FALL WORKSHOP -Motion by Deputy Supervisor Underhill, second by Councilman Gerace authorizing Jon Long, Gordon Offhaus, Paul Marchese, Paul McCullough, and Kathy Jasinski to attend the GFLRPC Fall Workshop, November 17 at the Clarion Hotel, Batavia, New York at a cost of \$50.00 each.

Ayes: Underhill, Gerace, Lang, Michalak, Post

MOTION CARRIED by unanimous vote (5-0)

GFOA SEMINAR- Motion by Deputy Supervisor Underhill, second by Councilwoman Michalak authorizing Marcy Crandall and Hiedi Librock to attend the Government Finance Officer Association Seminar December 1, 2011 in Buffalo, New York at a cost of \$45.00 each. A Town vehicle will be used.

Ayes: Underhill, Michalak, Gerace, Lang, Post

MOTION CARRIED by unanimous vote (5-0)

TRAINING CREDIT HOUR- Motion by Supervisor Post, second by Councilman Lang authorizing one training credit hour to Planning Board and Zoning Board of Appeal Members who attend the December 21, 2011 Ag and Farmland Protection Plan Public Hearing.

Ayes: Post, Lang, Underhill, Michalak, Gerace

MOTION CARRIED by unanimous vote (5-0)

COMMUNICATIONS:

The Town Clerk reported on the following:

October Town Clerk monthly report collected a total of \$7,534.68 remitted \$3,254.08 to the Supervisor for the Local Share.

Credit Cards- The Town Clerk's office now accepts credit cards for payments. There are convenience fees involved and certain restrictions.

Town Clerk's Office- The Town Clerk's Office will be closing at 5:00 P.M. on Wednesday, November 23 rather than 7:00 P.M.

HAPPY THANKSGIVING TO ALL!!!!

ADJOURNMENT:

Motion Councilman Gerace, second Councilwoman Michalak to adjourn the Regular Town Board Meeting at 7:40 P.M.

Ayes: Gerace, Michalak, Lang, Underhill, Post

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MOTION CARRIED by unanimous vote (5-0)

The Supervisor thanked all for budget work and a very productive year.

Respectfully submitted,

Teresa M. Morasco
Town Clerk