

**NOVEMBER 23, 2011
SPECIAL TOWN BOARD MEETING**

Town Hall

5:00 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

The Supervisor called the meeting to order at 5:00 P.M.

RESOLUTION NO. 167:

Councilman Lang offered the following:

**APPROVAL OF CHANGE ORDER NO. 4
ELLICOTT TOWNLINE WATER DISTRICT
2007 WATER SYSTEM IMPROVEMENTS**

WHEREAS, Sergi Construction, Inc. is under contract with the Town of Batavia for the 2007 Water System Improvement project, and

WHEREAS, certain areas within the Ellicott/Townline Roads Water District and Water District No.6 have experienced low pressure, and

WHEREAS, Clark Patterson Lee has designed a pressure boosting system to alleviate the low pressure areas, and

WHEREAS, sufficient remaining grant funds are available to complete this work, and

WHEREAS, Sergi Construction, Inc. has submitted a change order proposal for this work (portion of Pump Station), in the amount of \$95,420.25 as shown on the attached Change Order No.4, and

WHEREAS, CLARK PATTERSON LEE, has reviewed Sergi Construction's the recommended approval of the change order request.

NOW, THEREFORE, BE IT

RESOLVED, the Town of Batavia hereby authorizes the Supervisor to execute the attached Change Order which is contingent upon approval by USDA – Rural Development and the closing on the Pump Station property.

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

RESOLUTION NO. 168:

Deputy Supervisor Underhill offered the following:

**APPROVAL OF CHANGE ORDER NO. 5
SHEPARD PUTNAM WATER DISTRICT
2007 WATER SYSTEM IMPROVEMENTS**

WHEREAS, Sergi Construction, Inc. is under contract with the Town of Batavia for the 2007 Water System Improvement project, and

WHEREAS, certain areas within the Ellicott/Townline Roads Water District and Water District No.6 have experienced low pressure, and

WHEREAS, Clark Patterson Lee has designed a pressure boosting system to alleviate the low pressure areas, and

WHEREAS, sufficient remaining grant funds are available to complete this work, and

WHEREAS, Sergi Construction, Inc. has submitted a change order proposal for this work (portion of Pump Station), in the amount of \$57,372.00 as shown on the attached Change Order No.5, and

WHEREAS, CLARK PATTERSON LEE, has reviewed Sergi Construction's the recommended approval of the change order request.

NOW, THEREFORE, BE IT

RESOLVED, the Town of Batavia hereby authorizes the Supervisor to execute the attached Change Order which is contingent upon approval by USDA – Rural Development and the closing on the Pump Station property.

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

RESOLUTION NO. 169:

Supervisor Post offered the following:

**APPROVAL OF CHANGE ORDER NO. 6
WATER DISTRICT NO.6
2007 WATER SYSTEM IMPROVEMENTS**

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WHEREAS, Sergi Construction, Inc. is under contract with the Town of Batavia for the 2007 Water System Improvement project, and

WHEREAS, certain areas within the Ellicott/Townline Roads Water District and Water District No.6 have experienced low pressure, and

WHEREAS, Clark Patterson Lee has designed a pressure boosting system to alleviate the low pressure areas, and

WHEREAS, sufficient remaining grant funds are available to complete this work, and

WHEREAS, Sergi Construction, Inc. has submitted a change order proposal for this work (Check Valve Vault), in the amount of \$39,093.00 as shown on the attached Change Order No.6, and

WHEREAS, CLARK PATTERSON LEE, has reviewed Sergi Construction's the recommended approval of the change order request.

NOW, THEREFORE, BE IT

RESOLVED, the Town of Batavia hereby authorizes the Supervisor to execute the attached Change Order which is contingent upon approval by USDA – Rural Development and the closing on the Pump Station property.

Second by: Councilwoman Michalak

Ayes: Post, Michalak, Lang, Underhill, Gerace

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 170:

Councilwoman Michalak offered the following:

TOWN INSURANCE AWARD

WHEREAS, as of November 27, 2001 the Batavia Town Board retained New York Municipal Insurance Reciprocal to provide the Town with insurance coverage; and

WHEREAS, the insurance premium for 2012 (November 27, 2011 through November 27, 2012) has been quoted at forty-three thousand, five hundred, ninety-five dollars and twenty-nine cents (\$43,595.29 attached).

RESOLVED, the Batavia Town Board hereby retains New York Municipal Insurance Reciprocal to provide insurance coverage for the Town in the amount of forty-three thousand, five hundred, ninety-five dollars and twenty-nine cents (\$43,595.29).

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute any documents necessary for the award.

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

RESOLUTION NO. 171:

Councilman Gerace offered the following:

GOVERNMENT CRIME POLICY INSURANCE

RESOLVED, the Batavia Town Board hereby retains McManus-Peard-Gesl, Inc. to provide the Town with Government Crime Policy Insurance at an cost of four thousand, three hundred, seventy dollars (\$4,370.00). This includes Employee Theft per Loss, Forgery, Inside M&S, Outside the Premises, Computer Fraud, Funds Transfer Fraud and Faithful Performance. Also, Excess over Employee Theft Limit for the Town Clerk/Tax Collector, Deputy Town Clerk/Deputy Tax Collector; two (2) Town Justices, two (2) Court Clerks; (1) Bookkeeper; Secretary to the Supervisor, Highway Superintendent, and Town Engineer (see attached); and be it

FURTHER RESOLVED, the Batavia Town Board hereby directs the Tax Collector to remit to the Genesee County Treasurer its taxes in a timely manner before they exceed \$1,000,000.

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

RESOLUTION NO. 172:

Councilman Lang offered the following:

EXCESS EMPLOYER'S LIABILITY INSURANCE

RESOLVED, the Batavia Town Board hereby retains McManus-Peard-Gesl, Inc. to provide the Town's Excess Employer's Liability Insurance at a cost of one thousand, one hundred, eleven dollars, (\$1,111.00).

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

RESOLUTION NO. 173:

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO RETAIN AN EXPERT APPRAISER IN THE
LAXMI HOSPITALITY ASSESSMENT PROCEEDING**

WHEREAS, a Notice of Petition was filed in the Genesee County Clerk's Office on June 24,

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2011, and served upon the Town of Batavia on June 29, 2011, for the tax assessment case entitled Laxmi Hospitality, Inc. vs. Town of Batavia Assessor, et. al., Index No. 61115, and

WHEREAS, On July 20, 2011, the Town Board retained Joel R. Kurtzhalts, Esq., as Special Counsel, to defend the Town in the above-named litigation, and

WHEREAS, both Attorney Kurtzhalts and the Town Attorney have recommended that the Town engage the services of an appraiser, as per a proposed Letter of Engagement, annexed and made part of the Town Board Minutes.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that the Town Supervisor is hereby authorized and directed to sign a Letter of Engagement to hire Arrow Appraisal Services, Inc. to prepare a preliminary Appraisal of the Travelodge Motel, located at 8204 Park Road, Town of Batavia, for the sum of Seven Thousand and 00/100 Dollars (\$7,000.00), upon the terms and conditions of the Letter of Engagement, and

BE IT FURTHER RESOLVED that the Town Board will reserve its decision with regard to the preparation of a Court-Ready Appraisal, until receiving further information and recommendations from the Special Counsel and the Town Attorney.

Second by: Councilman Lang

Ayes: Underhill, Lang, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 174:

Supervisor Post offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW #2 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 enact administrative changes to the Code of the Town of Batavia.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York that proposed Local Law #2 of 2011 entitled "A Local Law to Amend Chapters 89 and 235 of the Code of the Town of Batavia Regarding the Definitions and Duties of the Code Enforcement Officer and the Building Inspector", 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 office of the Town Clerk until December 21, 2011, and that a public hearing be held on the 21st day of December, 2011, at 6:50 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

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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 (10) ten 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: Councilwoman Michalak

Ayes: Post, Michalak, Gerace, Underhill, Lang

APPROVED by unanimous vote (5-0)

Discussion-The Supervisor explained that this is to clarify the Building Inspector and Code Enforcement Officer positions in the Code of the Town.

**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 23rd day of November, 2011, proposed Local Law #2 of 2011 entitled "A Local Law to Amend Chapters 89 and 235 of the Code of the Town of Batavia Regarding the Definitions and Duties of the Code Enforcement Officer and the Building Inspector". Said Local Law proposes to amend portions of Chapter 89 of the Code of the Town of Batavia, designated as "Building Construction and Fire Prevention"; as well as Chapter 235 of the Code of the Town of Batavia, designated as "The Town of Batavia Zoning Ordinance", as summarized as follows:

1. To amend the definitions in Section 89-2 to grant to the Building Inspector appointed by the Town Board the same powers and duties to administer and enforce the Building Codes, as set forth in Chapter 89, as the Code Enforcement Officer appointed by the Town Board.
2. To amend the definitions in Section 235-5 to grant to the Code Enforcement Officer appointed by the Town Board the same powers and duties to administer and enforce the Zoning Ordinance, as set forth in Chapter 235, as the Building Inspector appointed by the Town Board.

PLEASE TAKE FURTHER NOTICE that on the 21st day of December, 2011, at 6:50 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.

PLEASE TAKE FURTHER NOTICE that this Notice represents only a summary of the proposed

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amendments to the Code of the Town of Batavia. A complete copy of the 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 public inspection during regular office hours.

Dated: Batavia, New York
November 23, 2011

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

ADJOURNMENT:

Motion Councilman Gerace, second Councilman Lang to adjourn the Regular Town Board Meeting at 5:12 P.M.

Ayes: Gerace, Lang, Underhill, Michalak, Post

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teresa M. Morasco
Town Clerk