

**SEPTEMBER 21, 2011
REGULAR TOWN BOARD MEETING**

Town Hall

7:00 P.M.

Dan Underhill, Deputy 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
Town Engineer Mountain
Building Inspector Lang
Roger Muehlig, Daily News Reporter
Jason Molino, City Manager
Batavia City Council -Marianne Clattenburg, Sam Barone, and Frank Ferrando
City/Town Consolidated Task Force- Chad Zambito, Joe Gerace, Alan Koch, Larry Reisdorf, Judy Cotton, Marcia Riley, and Dan Jones,

The Supervisor called the meeting to order at 7:00 P.M.

August 17, 2011 Regular Town Board Meeting: Motion Deputy Supervisor Underhill, second Councilwoman Michalak to approve the minutes as written.

Ayes: Underhill, Michalak, Gerace, Lang, Post

MOTION CARRIED by unanimous vote (5-0)

SPEAKERS:

City/Town Consolidation Task Force Committee, Chad Zambito, Chair addressed the Town Board. The Committee has been working on the selection process for a Consultant since the end of May and has just completed the process. They received five (5) submittals. Each firm was individually interviewed and scored. The Task Force consensus is to recommend the Center for Government Research (CGR) as the Consultant for the Consolidation Task Force Committee in preparing the City/Town Consolidation Charter. They are best suited for the project. Supervisor Post questioned whether funding is an issue. He commented that he would not like to see us exit out of the project, if it is a simple lack of funding. Mr. Zambito reported that CGR is within budget and their offer is capped. They don't anticipate spending more.

Each of the Task Force Committee members introduced themselves and expressed that it is a very rewarding and wonderful learning experience working with a great group of open minded individuals.

The Supervisor thanked the Consolidation Task Force Committee for their time and effort they are putting forth.

RESOLUTION NO. 135:

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Councilman Lang offered the following:

**CONTRACT BETWEEN D&S EXCAVATING INCORPORATED AND
THE TOWN OF BATAVIA
BATAVIA MOTEL ASBESTOS ABATEMENT AND DEMOLITION**

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 demolishing the buildings; and

WHEREAS, the Town of Batavia solicited bids for the asbestos abatement and demolition of the buildings; and

WHEREAS, the Town of Batavia Engineering Department reviewed all bids and recommends D&S Excavating, Incorporated, Frankfort, New York as the lowest responsible bidder at a cost of sixty thousand dollars (\$60,000) for the abatement and demolition of the buildings (recommendation letter attached).

NOW THEREFORE BE IT,

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the attached contact between D&S Excavating, Incorporated and the Town of Batavia for the asbestos abatement and demolition of the Batavia Motel located at 3768 West Street Road at a cost of sixty thousand dollars (\$60,000.00); and be it

FURTHER RESOLVED, the Supervisor is also hereby authorized to execute any other documents that may be required by New York State relating to the asbestos abatement and demolition.

Second by: Deputy Supervisor Underhill

Ayes: Lang, Underhill, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

Discussion- Councilman Gerace asked Value in locate fire and in training

RESOLUTION NO. 136:

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO GIFT A PORTION OF FEDERAL DRIVE
FOR USE BY THE FEDERAL DETENTION CENTER**

WHEREAS, the United States of America, (hereinafter referred to as the "USA"), by the United States Department of Homeland Security, has made a request that the Town of Batavia, (hereinafter referred to as the "Town"), transfer a portion of Federal Drive consisting of approximately 260 linear feet

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that lies west of the intersection of Federal Drive with the west boundary of Commerce Drive, containing approximately 0.435 acre, at no cost to the USA, and

WHEREAS, Section 72-h(a) of the New York State General Municipal Law, authorizes any Town Board to transfer real property to the Government of the United States, either with or without monetary consideration, and

WHEREAS, the Town has not been using this portion of Federal Drive for public transportation and will no longer need this area for any other Town municipal purpose, and

WHEREAS, the Town Board has considered that the transfer of this unused portion of Federal Drive is relieving the Town of its maintenance obligations regarding the same.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York that, subject to permissive referendum, the Town Supervisor is hereby authorized to transfer to the USA, without monetary consideration, a parcel of land consisting of approximately 260 linear feet that lies west of the intersection of Federal Drive with the west boundary of Commerce Drive, containing approximately 0.435 acre, and which is more particularly described in a Survey, prepared by Kenneth L. Slougenhopt, dated March 3, 2010, and a “Proposed Legal Description Lands to be Conveyed by Town of Batavia, NY”, copies of which shall be annexed to and made part of the Town Board Minutes, and

BE IT FURTHER RESOLVED that the Town Board hereby determines that the described area of Federal Drive has not been used for public transportation and no longer is needed for any Town municipal purpose, and

BE IT FURTHER RESOLVED that the Town Supervisor is hereby authorized and directed to sign on behalf of the Town of Batavia a Deed and any other necessary documents related to this transfer.

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

Discussion-The Supervisor stated that it has been a 3 year process to get to this point.

RESOLUTION NO. 137:

Supervisor Post offered the following:

AWARD BID – 10 WHEEL TRUCK, DUMP BODY& PLOW EQUIPMENT

WHEREAS, the Highway Superintendent received sealed bids for the purchase of a new 10 Wheel Truck, Dump Body, Plow, Wing and Spreader; and

WHEREAS, the bid opening date was Wednesday, August 24, 2011 at 3:00 P.M. at the Town

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Hall, at which time all bids were publicly opened and read aloud (bid summary attached);

WHEREAS, the Highway Superintendent reviewed all the bids and recommends Beam Mack Sales and Service, Incorporated, Rochester, New York as the lowest responsible bidder, meeting specifications (recommendation attached).

NOW THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby awards the bid for the purchase of a 2013 Mack Granite GV713 Truck with a Beau Roc Dump Box, Viking Cives Plow and Wing and a Smith Spreader to Beam Mack Sales and Service, Incorporated, Rochester, New York, at a cost of one hundred, ninety-six thousand, nine hundred, ninety dollars (\$196,990.00).

Second by: Councilman Gerace

Ayes: Post, Gerace, Lang, Underhill, Michalak

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 138:

Councilwoman Michalak offered the following:

JANITORIAL SERVICES

RESOLVED, the Batavia Town Board hereby retains New York State Industries for the Disabled, Inc., who represents Genesee County ARC, to perform janitorial services at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, from July 1, 2011 to June 30, 2012 at a monthly cost of one thousand, six hundred, sixty-four dollars and forty-seven cents (\$1,664.47) and be it

FURTHER RESOLVED, the Supervisor is hereby authorized to execute the attached proposal; and be it

FURTHER RESOLVED, that Genesee County ARC must provide the Town of Batavia a Certificate of Liability Insurance and a Certificate of Workers Compensation Insurance naming the Town as additional insured, and be it

FURTHER RESOLVED, the specifications for the cleaning of the Town Hall is attached.

Second by: Councilman Lang

Ayes: Michalak, Lang, Underhill, Gerace, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 139:

Councilman Gerace offered the following:

**SEQR- INVOLVED AGENCY RESPONSE
SUBDIVISION CLINTON STREET ROAD**

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WHEREAS, the Town Planning Board, has re-opened the SEQR for Gardner Estates Subdivision and a Positive Declaration was designated on April 19, 2011; and

WHEREAS, the Town of Batavia Town Board, an involved agency received notification, along with two Draft Scoping Documents (one prepared by the developer and one which had been previously prepared by the Town) for a Draft Environmental Impact Statement (DEIS) for review and response.

WHEREAS, the Town Board and the Town Engineer have reviewed the Draft Scoping Documents.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the attached response form, along with a certified copy of said resolution to the Town of Batavia Planning Board.

Second by: Deputy Supervisor Underhill

Ayes: Gerace, Underhill, Michalak, Lang, Post

APPROVED by unanimous vote (5-0)

Discussion- The Supervisor commended the Planning Board and the Town Staffers in the exemplary job they have done. This project has changed a number of times and it has been a long process.

RESOLUTION NO. 140:

Councilman Lang offered the following:

**APPROVAL OF CHANGE ORDER NO. 3
SANITARY SEWER DISTRICT NO. 1 IMPROVEMENTS**

WHEREAS, Tom Greenauer Development, Incorporated is under contract with the Town of Batavia for the Sanitary Sewer District No. 1 Improvements and

WHEREAS, Tom Greenauer Development, Incorporated has submitted a change order request in the amount of twenty thousand, seven hundred, thirty-seven dollars and fifty-three cents (\$20,737.53), as shown on the attached Change Order No.3, and

WHEREAS, the Town Engineer has reviewed the change order request along with the Clerk of the Works records and recommends 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 No.3.

Second by: Deputy Supervisor Underhill

Ayes: Lang, Underhill, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 141:

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Deputy Supervisor Underhill offered the following:

AUTHORIZING BUDGET TRANSFERS FOR 2011

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

General Fund:

From	Amount	To
A8165.403 Superfund – Env testing	3,000.00	A8165.406 Superfund – Post Closure
A1620.400 Bldg – Utilities	1,500.00	A1620.402 Bldg – Oper Exp
A1990.400 Contingency	17,900.00	A7110.402 Sports Park
A1990.400 Contingency	74,000.00	A1940.400 Land Acquisition
A8540.401 Comm Env Drainage	15,150.00	A8662.400 Public Works - GCCCP
A3620.100 Bldg & Safety Insp – C.W.	30,000.00	A3620.103 Bldg & Safety Insp – D.L.
A3620.400 Blg & Safety insp – Contr	1,600.00	A3620.402 Bldg & Safety Insp – Engineer
A5132.400 Garage – Utilities	3,000.00	A5132.402 Garage – Other Oper Exp

Highway

DA5130.400 Machinery – Contr	9,400.00	DA5130.200 Machinery - Equipment

Sewer District 1

SS1-8120.405 – Sant Swr - Repair	20,000.00	SS1-8120.102 – Sant Swr – PT
SS1-8120.405 – Sant Swr – Repair	1,900.00	SS1-8120.200 – Sant Swr – Equipment
SS1-8120.405 – Sant Swr – Repair	1,500.00	SS1-9030.800 – Social Security

Sewer District 2

Water

SW8340.405 Trsm/Dist – Lg Meter	10,000.00	SW8340.400 Trsm/Dist - Contr

Second by: Councilman Gerace

Ayes: Underhill, Gerace, Lang, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 142:

Supervisor Post offered the following:

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PURCHASE OF MOWER

WHEREAS, the Highway Superintendent reported the Dixie Chopper mower is no longer working and he has solicited for quotes on a new comparable replacement mower; and

WHEREAS, the Highway Superintendent recommends the purchase of a EXMark Lazer Z 72” deck with 34 HP Engine Mower from Messinger Sales, Alexander, New York at a cost of nine thousand, four hundred dollars (\$9,400.00) (recommendation attached).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Highway Superintendent to purchase the EXMark Lazer Z 72” deck with 34 hp Engine from Messinger Sales at a cost of nine thousand, four hundred dollars (\$9,400.00); and be it

FURTHER RESOLVED, the expenditure will be expended from line item DA5130.200 Equipment.

Second by: Councilman Lang

Ayes: Post, Lang, Underhill, Michalak, Gerace

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 143:

Councilwoman Michalak offered the following:

SURPLUS EQUIPMENT

WHEREAS, the Town of Batavia has determined that the following item is no longer needed for Town use and has determined the following item should be sold at auction and deleted from inventory:

One 1999 Ford F150 Pickup truck with snow plow, VIN # 1FTRF18W8XNB20422.

NOW THEREFORE BE IT,

RESOLVED, the Batavia Town Board hereby authorizes the Highway Superintendent to surplus the item listed above and sell it at auction.

Second by: Councilman Gerace

Ayes: Michalak, Gerace, Lang, Underhill, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 144:

Councilman Gerace offered the following:

**RESOLUTION TO AUTHORIZE PURCHASE OF A
PARCEL OF LAND LOCATED ON ELLICOTT STREET ROAD**

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WHEREAS, the Town of Batavia is seeking to purchase a parcel of land as set forth hereinafter for the purpose of constructing and installing a water booster pump station to increase pressures in the Ellicott Street Road Water District in the Town of Batavia; as well as in Water District No. 6, located in the Town of Stafford, which is serviced by the Town of Batavia pursuant to an Inter-municipal Agreement, and

WHEREAS, a purchase price of \$10,000.00 is to be offered for property owned by Donald and Patricia S. Partridge, located on Ellicott Street Road in the Town of Batavia, consisting of approximately 0.111 acre, being part of a parcel containing 4.78 acres, and

WHEREAS, the Town will obtain an independent appraisal to determine that the Town is paying a fair amount for this parcel, and

WHEREAS, the Town Board desires to purchase this property with the standard terms and conditions in a Contract for Real Property.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Batavia, that the Supervisor of the Town is hereby authorized to submit an offer, subject to and after receipt of an independent appraisal verifying that the proposed purchase amount is reasonably related to the fair market value, and if accepted, to thereafter purchase on behalf of the Town the real property of Donald and Patricia S. Partridge, located on Ellicott Street Road consisting of approximately 0.111 acre, being part of a parcel containing approximately 4.78 acres identified in Tax Map No. 20-2-4.111, being further described in a Survey prepared by Welch & O'Donoghue Land Surveyors, dated September 15, 2011, Job No. G09-3496S, for the price of \$10,000.00 pursuant to a proposed "Contract for Real Property", with the said Survey and Contract both annexed to be made part of the Minutes hereof, and

BE IT FURTHER RESOLVED, that the Supervisor is hereby authorized to execute all documents that may be required to effectuate the conveyance and transfer of all rights, title and interest of the aforesaid parcel to the Town of Batavia.

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

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

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

RESOLUTION NO. 145:

Councilman Lang offered the following:

**TOWN OF BATAVIA
SEQR RESOLUTION - NEGATIVE DECLARATION**

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TOWN OF BATAVIA WEST MAIN STREET ROAD SEWER DISTRICT

WHEREAS,

- 1) In accordance with the New York State Environmental Quality Review regulations (SEQR), the Town Board of the Town of Batavia announced its intent to serve as Lead Agency on August 17, 2011, to conduct an environmental review of the Town of Batavia West Main Street Road Sewer District. The project will address the existing public health and safety problems associated with failing or leaking septic systems in this area of the Town of Batavia.
- 2) The Town Board has determined that, as a portion of the project is within a Genesee County Agricultural District, the proposed action is a Type I action as defined under SEQR.
- 3) The Town Board, in its capacity of Lead Agency, has caused to be prepared an environmental assessment of the significance of and potential environmental impact of the action described above.
- 4) On August 19, 2011, the Town Board notified the Involved and Interested Agencies of its intention to act as Lead Agency for this project and circulated the full Environmental Assessment Form (EAF).
- 5) Comments on the EAF from Involved and Interested Agencies have been addressed (see Negative Declaration). The Town will obtain all necessary permits and approvals from Involved Agencies and will comply with agency requirements.
- 6) The Town Board has considered the Environmental Record prepared for this action, including any comments received from the Involved and Interested Agencies, and the proposed Negative Declaration.

NOW THEREFORE BE IT RESOLVED,

The Town Board declares that it will serve as Lead Agency for the extension of sanitary sewer facilities to West Main Street Road Sewer District; and,

The Town Board declares that, based on the Environmental Record which has been prepared, the project will result in no major impacts and, therefore, will not cause significant damage to the environment. A Negative Declaration under SEQR is therefore issued for this project.

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

RESOLUTION NO. 146:

Deputy Supervisor Underhill offered the following:

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**RESOLUTION TO EXTEND THE OFFER TO PURCHASE
REAL PROPERTY LOCATED AT 999 PARK ROAD**

WHEREAS, the Town Board passed a Resolution to authorize that a “Purchase and Sale Contract for Lots and Vacant Land” be submitted to the City of Batavia, and

WHEREAS, Paragraph 14 of said Purchase and Sale Contract stated that the offer would expire in August 31, 2011, at 5:00 p.m., and

WHEREAS, at its next meeting on September 26, 2011, the City Council intends to consider approval of a sale to the Town of Batavia of property located at 999 Park Road, as set forth in the Contract.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that Paragraph 14 of a “Purchase and Sale Contract for Lots and Vacant Land”, previously signed on August 17, 2011, on behalf of the Town of Batavia by the Town Supervisor, shall hereby be amended to extend the life of the offer by changing the expiration date to September 30, 2011, at 5:00 p.m., and

BE IT FURTHER RESOLVED that all other terms and conditions of the aforesaid Purchase and Sale Contract shall remain the same.

Second by: Councilman Lang

Ayes: Underhill, Lang, Michalak, Gerace, Post

APPROVED by unanimous vote (5-0)

Abstract No. 9-2011: Motion Deputy Supervisor Underhill, second Councilman Gerace, to authorize the Supervisor to pay the following vouchers:

General	\$41,502.48
Highway	104,218.42
Sewer No. 1	2,640.35
Sewer No. 2	371,430.19
Water	47,937.92
Salie Dr Sewer	8,134.35
Sewer 1 Improvements	60,703.98
Wortendyke	3,585.75
Total	\$640,153.44

Check numbers 16209-16211, 16213,16215,-16238, 16240-16266, 16268-16283, 16285-16292

Ayes: Underhill, Gerace, Lang, Michalak, Post

MOTION CARRIED by unanimous vote (5-0)

DEPARTMENT REPORTS:

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Steve Mountain, Town Engineer suggested that if the Town Board is in support of the Consolidation Task Force's Consultant recommendation that they pass a motion to forward to the Task Force and the City of Batavia.

CONSOLIDATION TASK FORCE CONSULTANT-Motion Supervisor Post, second by Councilman Gerace the Batavia Town Board hereby supports the recommendation of the City/Town Charter Consolidation Task Force to contract with the Center for Government Research (CGR) as consultant for the Task Force project.

Ayes: Post, Gerace, Lang, Underhill, Michalak

MOTION CARRIED by unanimous vote (5-0)

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 .30%.

Special Town Board Meeting- There will be a Special Town Board meeting on October 5, 2011 at 5:00 P.M. to distribute the Tentative 2012 Town Budget.

GFLRPC FALL WORKSHOP-Motion Deputy Supervisor Underhill, second by Councilman Lang authorizing Clinton Worthington, Dan Lang and Bruce Gerould to attend the GFLRPC Fall Workshop, November 17 at the Clarion Hotel, Batavia, New York at a cost of \$50.00 each.

Ayes: Underhill, Lang, Michalak, Gerace, Post

MOTION CARRIED by unanimous vote (5-0)

LORMAN SEQRA TRAINING-Motion Councilman Lang, second by Deputy Supervisor Underhill authorizing Joey Neth and Hiedi Libroch to attend the Lorman SEQRA Training December 2, 2011 in Amherst, New York at a cost of \$239.00 each. A Town vehicle will be used.

Ayes: Lang, Underhill, Michalak, Gerace, Post

MOTION CARRIED by unanimous vote (5-0)

COMMUNICATIONS:

The Town Clerk reported on the following:

August Town Clerk monthly report collected a total of \$10,647.54 remitted \$6,768.23 to the Supervisor for the Local Share.

Planning & ZBA Training- GC Planning Department are hosting Powers and Duties Workshops in October. Also, the GFLRPC's Fall Workshop is November 17. Town Officials have been advised of these trainings.

NYS Lifeline- Received a letter from the NYS Public Service Commission. They are promoting the Lifeline Discount Telephone Service Program and asking governmental agencies to assist in helping consumers. Materials have been ordered and will be available at the Town Hall.

GCARC- Employer Appreciation Breakfast is October 18, 2011 at the Genesee ARC Community Center. October is National Disability Employment Month and to show their appreciation for employing the disabled they host an annual breakfast for the employers.

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COMMITTEE REPORTS:

Parks - Councilman Gerace reported that he attended the County Parks Committee meeting. It was well attended and very informative. Paul Osborn, Genesee County Park Supervisor does a lot with a shoestring staff. Mr. Osborn gave the County Park Committee some tasks to work on before the next meeting.

ADJOURNMENT:

Motion Councilman Gerace, second Councilman Lang to adjourn the Regular Town Board Meeting at 7:48 P.M.

Ayes: Gerace, Lang, Underhill, Michalak, Post

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk