

**AUGUST 21, 2013  
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 Zambito

**Others**

**Present:** Town Clerk Morasco  
Roger Muehlig, Daily News Reporter

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

**July 17, 2013 Regular Town Board Meeting, August 7, 2013 Special Town Board Meeting and August 14, 2013 Special Town Board Meeting:** Motion Councilman Lang, second Deputy Supervisor Underhill to approve the minutes as written.

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

**RESOLUTION NO. 136:**

Councilman Lang offered the following:

**RESOLUTION TO RETAIN SPECIAL COUNSEL TO DEFEND THE TOWN IN THE  
SCP DISTRIBUTORS, LLC ASSESSMENT PROCEEDING**

**WHEREAS**, a Notice of Petition was filed in the Genesee County Clerk's Office on July 23, 2013, and served upon the Town of Batavia on July 23, 2013, for the tax assessment case entitled SCP Distributors, LLC vs. The Board of Assessors and/or the Assessor of the Town of Batavia, and the Board of Assessment Review, Index No. 62961, and

**WHEREAS**, the Town Attorney, Kevin D. Earl, has recommended in a letter, dated August 2, 2013, a copy of which is annexed hereto, that the Town Board retain the Law Firm of Bennett DiFilippo & Kurtzhalts, LLP.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, that Joel R. Kurtzhalts, Esq. of the Law Firm Bennett, DiFillippo & Kurtzhalts, LLP, be retained as special counsel to defend the Town in the above-named tax assessment litigation, upon the terms and rates as set forth in his letter to the Town Attorney, dated July 30, 2013, a copy of which is annexed hereto, and

**BE IT FURTHER RESOLVED** that payment is hereby authorized for his attorney's fees, as billed, together with all necessary disbursements, fees and expenses, including expert witness fees.

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

**RESOLUTION NO. 137:**

Deputy Supervisor Underhill offered the following:

**GENESEE COUNTY VISITORS GUIDE ADVERTISEMENT**

**RESOLVED**, the Batavia Town Board hereby authorizes a full-page advertisement in the 2014 Genesee County Visitors Guide at a cost not to exceed \$1,800.00; and be it further

**RESOLVED**, Berneda Scoins, Town Historian will serve as the Community Page Coordinator.

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

**RESOLUTION NO. 138:**

Supervisor Post offered the following:

**RESOLUTION INCREASING BUDGETARY LINE ITEMS**

**RESOLVED**, the Batavia Town Board hereby authorizes the following budget line item increases to account for the CDBG Grant-Alpina:

<b>Revenue Line Item:</b>		<b>Expenditure Line Item:</b>	
A4910	\$16,000.00	A6789.400	\$16,000.00

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

**RESOLUTION NO. 139:**

Councilwoman Michalak offered the following:

**REAPPOINTMENT – TOWN ASSESSOR**

**WHEREAS**, Rhonda Saulsbury has been the Assessor for the Town of Batavia since June 2011;  
and

**WHEREAS**, her term will expire as of September 30, 2013; and

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**WHEREAS**, she has served the Town in an exemplary fashion.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby reappoints Rhonda Saulsbury, 8795 Rollin Circle, Batavia, New York 14020, as Assessor for the Town of Batavia. The term will begin October 1, 2013 and end September 30, 2019.

**Second by:** Deputy Supervisor Underhill

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

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

**RESOLUTION NO. 140:**

Councilman Zambito offered the following:

**APPOINTMENT TO ASSESSMENT BOARD OF REVIEW**

**WHEREAS**, Erik Lang's term on the Assessment Board of Review expires September 30, 2013; and

**RESOLVED**, the Batavia Town Board hereby re-appoints Erik Lang, 9296 Wortendyke Road, Batavia, New York, to the Assessment Board of Review for a term to commence October 1, 2013 and expiring September 30, 2018.

**Second by:** Deputy Supervisor Underhill

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

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

**RESOLUTION NO. 141:**

Councilman Lang offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW #1 OF 2013  
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 2014 that requires a real property tax levy in excess of the tax levy limit, also known as Town of Batavia Local Law #1 of 2013.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York that proposed Local Law #1 of 2013 entitled "A Local Law to Override the Tax Levy Limit Established in General Municipal Law § 3-c for Fiscal Year 2014", 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

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**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 September 18, 2013 and that a public hearing be held before this Town Board on the 18th day of September, 2013 at 6:55 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:** Deputy Supervisor Underhill  
**Ayes:** Lang, Underhill, Michalak, Zambito, Post  
**APPROVED by unanimous vote** (5-0)

**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 21st day of August, 2013 proposed Local Law #1 of 2013 entitled "A Local Law to Override the Tax Levy Limit Established in General Municipal Law § 3-c for Fiscal Year 2014". 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 2014 that requires a real property tax levy in excess of the tax levy limit.

**PLEASE TAKE FURTHER NOTICE** that on 18<sup>th</sup> day of September, 2013, at 6:55 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  
August 21, 2013

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

**RESOLUTION NO. 142:**

Deputy Supervisor offered the following:

**TRAINING WORKSHOP**

**RESOLVED**, the Batavia Town Board hereby authorizes the following personnel to attend training workshops:

Jeremy Liles -Redevelopment Concept Review, (was) July 29,2013. There is no fee for this workshop.

Tom Lichtenthal & Patti Michalak- NYMIR Playground Equipment Inspection & Maintenance Seminar, August 26, 2013. There is no fee for this seminar. A Town vehicle will be used.

Michael Cleveland- Town Magistrates Conference, September 8 through September 11, 2013. The cost for the conference and lodging is \$650.00. A Town vehicle will be used.

Mary Cordes & Teresa Morasco-Biel's Application Extender Expo, September 19, 2013. There is no cost for this workshop. A Town vehicle will be used.

Teresa Morasco - NYSTC Regional Meeting/Training, September 22 & 23, 2013 in Corning, New York The cost of the training is \$35.00. A Town vehicle will be used.

Steve Mountain- NY COM, "Doing Business with the NY Environmental Facilities Corporation" seminar, October 3, 2013. The cost of the training is \$125.00. A Town vehicle will be used.

Joseph Neth- Greece Sanitary & Storm Sewer GIS Project Presentation, August 28, 2013. The cost of the training is \$20.00. A Town vehicle will be used.

**Second by:** Councilman Lang

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

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

**Abstract No. 8-2013:** Motion Deputy Supervisor Underhill, second Councilwoman Michalak to authorize the Supervisor to pay the following vouchers:

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General	\$ 17,573.44
Highway	4,557.54
Sewer No. 1	82,113.15
Sewer No. 2	47,707.20
Water	5,475.97
West Main Sewer	992.00
NE Route 98 water	418.50
<b>Total</b>	<b>\$158,837.80</b>

Check numbers 18209 thru 18230, 18232 thru 18238

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

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

**DEPARTMENT REPORTS:**

**The Supervisor reported on the following departments:**

**Highway -** \*Working on drainage and reconstruction of Galloway Road  
\*Cleaning up roads and assisting other Towns

**Water/Wastewater-** Maintaining pump stations

**Building-** \*Building permit applications continue to be filed  
\* Opportunities continue for more growth  
\* Assisting other communities

**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 .15% and .40%.

**Special Meeting-** There will be a Special Town Board meeting on Wednesday, August 28, 2013 to approve easements for West Main Sewer project and to pay vouchers received after August 16.

**COMMUNICATIONS:**

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

**July Town Clerk monthly report collected** a total of \$6,012.00, remitted \$5,091.79 to the Supervisor for the Local Share.

**Conservation Licenses-** The Hunting and Fishing licenses for the 2013-2014 season went on sale on Monday, August 12, 2013.

**Kiwanis Park Use Donation-** Received a \$15.00 donation from Grace Stewart and Sherry Benty for use of the Kiwanis Park. I sent a letter of thanks to her on behalf of the Town.

**Household Hazardous Waste Collection-**GLOW Region Solid Waste Management Committee will be having a Hazardous Waste/Pharmaceutical Collection on September 21, 2013 at the Genesee County Highway Department. Appointments are required and can be made by call the GLOW office at

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344-2580, ext. 5463.

**Training-** Genesee/Finger Lakes Regional Planning Council is presenting a professional development training, "Effectively Facilitating Heated Meetings", for all elected officials on October 30, 2013. The cost is \$85.00. Personnel have been notified.

**ADJOURNMENT:**

Motion Deputy Supervisor Underhill, second Councilwoman Michalak to adjourn the Regular Town Board Meeting at 7:20 P.M.

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

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

Respectfully submitted,

Teresa M. Morasco  
Town Clerk