

**MAY 21, 2014  
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.

**April 16, 2014 Regular Town Board Meeting, April 30, 2014 Special Town Board Meeting, and May 14, 2014 Special Town Board Meeting:** Motion Deputy Supervisor Underhill, second Councilman Lang to approve the minutes as written.

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

**RESOLUTION NO. 96:**

Councilman Lang offered the following:

**SURPLUS 10 TON EQUIPMENT TRAILER FROM  
HIGHWAY DEPARTMENT**

**WHEREAS,** the Highway Department has purchased a 2014 25 ton equipment trailer for the Highway Department and,

**WHEREAS,** the Highway Superintendent recommends that the 2000 10 ton equipment trailer (VIN 4KNTT2426YL163183) is no longer needed for highway purposes and be declared as surplus and sold at auction.

**NOW, THEREFORE, BE IT**

**RESOLVED,** the Batavia Town Board hereby declares the 2000 10 ton equipment trailer (VIN 4KNTT2426YL163183) as surplus and authorizes the Highway Superintendent to sell it at auction.

**Second by:** Deputy Supervisor

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

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

**RESOLUTION NO. 97:**

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Deputy Supervisor Underhill offered the following:

**TRAINING WORKSHOP**

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

Teressa Morasco and Patti Michalak- Municipal Seminar-Hodgson Russ LLP May 22, 2014. There is no cost for this training and a Town vehicle will be used.

Tom Lichtenthal- Highway School June 2- 4, 2014. The cost of this training is approximately \$504.00.

Teressa Morasco, Patti Michalak and Hiedi Librock- Strong Towns Seminar June 3, 2014. The cost for this training is \$65.00 each and a Town vehicle will be used.

Mickey Morrow-Backflow Prevention Certified Tester Training December 15 - 18, 2014. The cost for this training is \$595.00 and a Town vehicle will be used. (Note: Steven Tanner will also be attending, as the class for June 16 - 19, 2014 wasn't available)

**Second by:** Councilman Zambito

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

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

**RESOLUTION NO. 98:**

Supervisor Post offered the following:

**MEMORIAL DAY WREATHS**

**WHEREAS**, the Town of Batavia has provided three wreaths for Memorial Day in honor of our veterans; and

**WHEREAS**, the Town would like to continue to provide wreaths; and

**WHEREAS**, the wreaths will be placed at Daws Corners Cemetery and Grandview Cemetery by the Batavia Memorial Day Committee (Disabled American Veterans, VFW, American Legion, Marine Corp League, and Vietnam Veterans of America).

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes three (3) wreaths to be purchased from Floral Fantasies at a cost of sixty-five dollars (\$65.00) each; and be it further

**RESOLVED**, the expenditure will be appropriated from line item A6510.400-Veterans Services.

**Second by:** Councilman Lang

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

**RESOLUTION NO. 99 :**

Councilwoman Michalak offered the following:

**BORROWING AND GENERAL  
FINANCIAL ADVISORY SERVICES AGREEMENT  
MUNICIPAL SOLUTIONS, INCORPORATED**

**WHEREAS,** on May 16, 2012 the Town of Batavia entered into an agreement with Municipal Solutions, Incorporated for Bond Anticipation Note Borrowing, Long-term Serial Bond Borrowing and General Financial Services; and

**WHEREAS,** the agreement is due for review and renewal; and

**WHEREAS,** to continue this service Municipal Solutions, Incorporated submitted a proposal of services agreement (attached).

**RESOLVED,** the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement between the Town of Batavia and Municipal Solutions, Incorporated for Bond Anticipation Note Borrowing, Long-term Serial Bond Borrowing and General Financial Services; said agreement is for a period of two years.

**Second by:** Councilman Zambito

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

**RESOLUTION NO. 100:**

Councilman Zambito offered the following:

**MARRIAGE OFFICER APPOINTMENT**

**RESOLVED,** the Batavia Town Board, in accordance with New York State Relations Law Section 11-C, hereby appoints Teressa M. Morasco, Town Clerk as a Marriage Officer for the Town of Batavia, said term expiring December 31, 2017.

**Second by:** Councilman Lang

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

**RESOLUTION NO. 101:**

Councilman Lang offered the following:

**GENERATOR MAINTENANCE AGREEMENT  
KEY POWER SYSTEMS, INCORPORATED**

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**WHEREAS**, in May 2012 the Town of Batavia entered into an agreement with Key Power Systems, Inc. to service the Town's Emergency Generators; and

**WHEREAS**, the agreement is due to expire on May 31, 2014; and

**WHEREAS**, Key Power Systems, Inc. submitted an itemized preventative maintenance proposal agreements totaling \$4,000.00 to maintain eight generators on a semi-annual basis (agreement attached).

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby accepts Key Power Systems, Inc. proposals to perform Prevention Maintenance for eight emergency generators; and be it

**FURTHER, RESOLVED** the Batavia Town Board hereby authorizes the Supervisor to execute the agreements, effective June 1, 2014 and expiring May 31, 2015; and be it

**FURTHER RESOLVED** the expenditure will be appropriated from the corresponding water and sewer contractual line items.

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

**RESOLUTION NO. 102:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO AMEND RESOLUTION 12 OF 2014**  
**AUTHORIZING APPOINTMENT OF ATTORNEY FOR THE TOWN**

**WHEREAS**, the Batavia Town Board adopted resolution number 12 of 2014 retaining Kevin Earl as attorney for the Town for the one (1) year term beginning January 1, 2014 and ending December 31, 2014 at one hundred, sixty dollars (\$160.00) per hour; and

**WHEREAS**, the Town is involved in a great number of projects requiring a higher volume of legal services; and

**WHEREAS**, Mr. Earl has proposed to limit the number of new matters he undertakes and increase his availability to the Town ( proposal attached)

**NOW, THEREFORE BE IT**

**RESOLVED** the Batavia Town Board hereby amends resolution number 12 of 2014 hourly rate from one hundred, sixty dollars (\$160.00) per hour to one hundred, ninety-five dollars (\$195.00) per hour, effective June 1, 2014

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**Second by:** Councilman Lang

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

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

**RESOLUTION NO. 103:**

Supervisor Post offered the following:

**RURAL DEVELOPMENT APPLICATION-ENGINEERING**  
**PRATT ROAD WATER DISTRICT**

**WHEREAS**, in order to complete the Rural Development Application for the Pratt Road Water District the Town Supervisor is required to execute an agreement between the Town and Clark Patterson Lee for work to be performed by them in relation to the project; and

**WHEREAS**, the fee for these services are stipulated in the agreements (attached).

**NOW THEREFORE, BE IT RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement between the Town of Batavia and Clark-Patterson Lee for services to be rendered in connection with the application to Rural Development for the Pratt Road Water, contingent upon USDA Rural Development approval.

**Second by:** Deputy Supervisor Underhill

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

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

**RESOLUTION NO. 104:**

Councilwoman Michalak offered the following:

**RURAL DEVELOPMENT APPLICATION- BOND COUNSEL**  
**PRATT ROAD WATER DISTRICT**

**WHEREAS**, in order to complete the Rural Development Application for the Pratt Road Water District the Town Supervisor is required to execute an agreement between the Town and Hodgson Russ, LLP for work to be performed by them in relation to the project; and

**WHEREAS**, the fee for these services are stipulated in the agreements (attached).

**NOW THEREFORE, BE IT RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement between the Town of Batavia and Hodgson Russ, LLP for services to be rendered in connection with the application to Rural Development for the Pratt Road Water, contingent upon USDA Rural Development approval.

**Second by:** Councilman Zambito

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

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

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**RESOLUTION NO. 105:**

Councilman Zambito offered the following:

**RURAL DEVELOPMENT APPLICATION- FINANCIAL ADVISER**  
**PRATT ROAD WATER DISTRICT**

**WHEREAS**, in order to complete the Rural Development Application for the Pratt Road Water District the Town Supervisor is required to execute an agreement between the Town and Municipal Solutions, Incorporated for work to be performed by them in relation to the project; and

**WHEREAS**, the fee for these services are stipulated in the agreements (attached).

**NOW THEREFORE, BE IT RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement between the Town of Batavia and Municipal Solutions, Incorporated for services to be rendered in connection with the application to Rural Development for the Pratt Road Water, contingent upon USDA Rural Development approval.

**Second by:** Councilwoman Michalak

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

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

**RESOLUTION NO. 106:**

Councilman Lang offered the following:

**RURAL DEVELOPMENT APPLICATION- TOWN ATTORNEY**  
**PRATT ROAD WATER DISTRICT**

**WHEREAS**, in order to complete the Rural Development Application for the Pratt Road Water District the Town Supervisor is required to execute an agreement between the Town and Town's Attorney, Kevin Earl for work to be performed by them in relation to the project; and

**WHEREAS**, the fee for these services are stipulated in the agreements (attached).

**NOW THEREFORE, BE IT RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement between the Town of Batavia and Town's Attorney, Kevin Earl for services to be rendered in connection with the application to Rural Development for the Pratt Road Water, contingent upon USDA Rural Development approval.

**Second by:** Deputy Supervisor Underhill

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

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

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**RESOLUTION NO. 107:**

Deputy Supervisor Underhill offered the following:

**RURAL DEVELOPMENT APPLICATION- AUDITOR  
PRATT ROAD WATER DISTRICT**

**WHEREAS**, in order to complete the Rural Development Application for the Pratt Road Water District the Town Supervisor is required to execute an agreement between the Town and Freed, Maxick & Battaglia for work to be performed by them in relation to the project; and

**WHEREAS**, the fee for these services are stipulated in the agreements (attached).

**NOW THEREFORE, BE IT RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement between the Town of Batavia and Freed, Maxick & Battaglia for services to be rendered in connection with the application to Rural Development for the Pratt Road Water, contingent upon USDA Rural Development approval.

**Second by:** Councilman Lang

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

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

**RESOLUTION NO. 108:**

Supervisor Post offered the following:

**RESOLUTION TO AMEND RESOLUTION 44 OF 2014  
AUTHORIZE  
THE FURNISHING AND INSTALLATION OF  
AUTOMATIC TRANSFER SWITCH  
AT THE WEST MAIN STREET PUMP STATION  
AMEND LINE ITEM**

**WHEREAS**, on January 15, 2014 the Batavia Town Board authorized the purchase of Automatic Transfer Switch for the West Main Sewer Pump Station; and

**WHEREAS**, the expenditure appropriated to line item SS28110.200 is incorrect .

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board amends resolution 44 expenditure from line item SS28110.200 to SS28120.200.

**Second by:** Councilman Lang

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

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

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**RESOLUTION NO. 109:**

Councilwoman Michalak offered the following:

**SERGI CONSTRUCTION INCORPORATED  
APPROVAL OF CHANGE ORDER NO. 1  
CREEK/EAST ROADS WATER IMPROVEMENTS**

**WHEREAS**, Sergi Construction, Incorporated is under contract with the Town of Batavia for the Creek/East Roads Water Improvements; and

**WHEREAS**, the Town has requested that the pipe size on Creek Road to be upsized from 8-inch to 12-inch; and

**WHEREAS**, the Town and Sergi Construction, Incorporated have negotiated the project to be a Lump Sum versus a Unit Price project, and

**WHEREAS**, Sergi Construction, Incorporated has submitted a change order request for the requested revisions in the amount of one hundred seventeen thousand three hundred twelve dollars and no cents (\$117,312.00) and changing the contract to a Lump Sum contract in the amount of nine hundred fifty one thousand two dollars and no cents (\$951,002.00), as shown on the attached Change Order No.1; and

**WHEREAS**, the Town Engineer has reviewed the change order request and recommends approval of the change order request.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Town of Batavia hereby approves Change Order No.1 and authorizes the Supervisor to execute the attached Change Order No.1 in the amount of one hundred seventeen thousand three hundred twelve dollars and no cents (\$117,312.00) and changing the contract to a Lump Sum contract in the amount of nine hundred fifty one thousand two dollars and no cents (\$951,002.00). The approved change order is subject to approval by USDA-Rural Development.

**Second by:** Councilman Deputy Supervisor

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

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

**Discussion:** The Supervisor reported that there is a pre-construction meeting tomorrow.

**RESOLUTION NO. 110:**

Councilman Zambito offered the following:

**BUFFALO NEWS SUBSCRIPTION**

**RESOLVED**, the Batavia Town Board hereby authorizes a yearly subscription to the Buffalo News at an annual cost of two hundred, thirty-four dollars (\$234.00); and be it

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**FURTHER RESOLVED**, the expenditure will be appropriated from line item A1620.402-Buildings Other.

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

**RESOLUTION NO. 111:**

Councilman Lang offered the following:

**RURAL DEVELOPMENT PROJECT MANAGEMENT SERVICES AGREEMENT –  
PRATT ROAD WATER DISTRICT  
BETWEEN THE TOWN OF BATAVIA AND STUART I. BROWN ASSOCIATES**

**WHEREAS**, the Supervisor wishes to retain Stuart I. Brown Associates to assist the Town in the implementation of the project to be assisted with funding from Rural Development for the construction of Pratt Road Water District at a cost not to exceed eight thousand dollars (\$8,000).

**NOW, THEREFORE, BE IT RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor for Project Management Services for the Pratt Road Water District at a cost not to exceed eight thousand dollars (\$8,000) and to execute the agreement between the Town of Batavia and Stuart I. Brown Associates.

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

**RESOLUTION NO. 112:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO APPROVE A PROFESSIONAL SERVICES AGREEMENT  
WITH CONSERVATION CONNECTS  
FOR THE  
GREEN GENESEE/SMART GENESEE PROJECT**

**WHEREAS**, the Town of Batavia has been working in partnership with the Genesee County Economic Development Center (GCEDC) in the development of New York Green, Inc., a non-profit organization for the purpose of providing environmental services to balance natural resource conservation with economic growth and development; and

**WHEREAS**, New York Green, Inc. has developed a plan to develop a Green Genesee/Smart Genesee Road Map project which will facilitate planning for continued economic growth opportunities in a way that preserves agriculture, open space and natural resources; and

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**WHEREAS**, the Town of Batavia applied for and obtained a 2013 Consolidated Funding Application (CFA) award for a NYSERDA Cleaner, Greener Community Grant in the amount of \$175,000.00 for Green Genesee/Smart Genesee Road Map project; and

**WHEREAS**, the total estimated Green Genesee/Smart Genesee Road Map project cost is \$308,334.00; and

**WHEREAS**, the balance of the project cost not covered by the grant will be shared with the project's partners; Towns of Batavia, Oakfield and Alabama, Village of Oakfield, Genesee County, NY Green, and Genesee County Economic Development Center who have committed up to \$169,835.00 in combination of cash and in-kind services, and

**WHEREAS**, Conservation Connects has submitted a proposal to implement the development of the Green Genesee/Smart Genesee Road Map in accordance with NYERDA's Cleaner, Greener Communities Grant in the amount of \$242,500.00(attached); and

**WHEREAS**, Conservation Connects was identified as the lead consultant for the project in the grant application and as such is approved by NYSERDA.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, does hereby authorize the Supervisor to retain Conservation Connects for the development of the Green Genesee Road Map plan and it does hereby approve a proposed Letter Agreement, dated May 21, 2014, by and between the Town of Batavia and Conservation Connects, a copy of which is annexed to and made a part of the Town Board Minutes; and

**BE IT FURTHER RESOLVED** that the Supervisor is hereby authorized and directed to execute the said Letter Agreement on behalf of the Town of Batavia.

**Second by:** Councilman Lang

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

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

**Abstract No. 5-2014:** Motion Deputy Supervisor Underhill, second Councilwoman Michalak to authorize the Supervisor to pay the following vouchers:

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|                |                     |
|----------------|---------------------|
| General        | \$83,076.16         |
| Highway        | 245,370.35          |
| Sewer No. 1    | 65,567.50           |
| Sewer No. 2    | 53,515.92           |
| Water          | 185,724.59          |
| Creek          | 272.00              |
| West Main      | 180,281.64          |
| Pratt          | 1,120.00            |
| CDBG           | 94,273.05           |
| Townline-Bat N | 2,337.82            |
| <b>Total</b>   | <b>\$911,539.03</b> |

Check numbers 18958 thru 19042, 1008 ACH: \$4,902.50 Online: \$5,891.68

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

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

**DEPARTMENT REPORTS:**

**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 a CD and is paying a rate of .22%.

**Public Hearing and Special Town Board Meeting-** Wednesday, May 28, 2014 at 7:00 P.M.

-Batavia North Water District

**COMMUNICATIONS:**

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

**April Town Clerk monthly report collected** a total of \$7,226.43, remitted \$6,467.40 to the Supervisor for the Local Share.

**Shepard Road Speed Limit-** Received a letter from NYSDOT. They have completed their review of Shepard Road regarding lowering the speed limit and have determined that a 45 mph speed limit is justified. Orders for the speed zone are being processed by NYSDOT for filing with the Secretary of State.

**Liquor License Renewal-**Received notification that the American Legion is renewing their liquor license.

**ADJOURNMENT:**

Motion Councilman Lang, second Councilman Zambito to adjourn the Regular Town Board Meeting at 7:30 P.M.

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

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

Respectfully submitted,  
 Teresa M. Morasco  
 Town Clerk