**Town Hall 7:00 P.M.**

East Pembroke Boy Scout Troop 6064 led the pledge to the flag.

**Roll Call**

**Present:** Supervisor Post

Deputy Supervisor Underhill

Councilwoman Michalak

Councilman Zambito

**Absent:** Councilman Lang

**Others**

**Present:** Town Clerk Morasco

Sharon White, Councilwoman Elect

Roger Muehlig, Daily News Reporter

Mike Pettinella, Buffalo News Reporter

East Pembroke Boy Scout Troop 6064

The Supervisor called the meeting to order at 7:05 P.M.

The Town Board reviewed the SEQR for Local Law 6 of 2015 – Amending the Zoning Code to Add Solar Systems.

The Supervisor called the Public Hearing on Local Law 6 of 2015 to order at 7:08 P.M. Minutes of public hearing entered separately from Regular Town Board Minutes.

# October 21, 2015 Regular Town Board Meeting: Motion Councilman Zambito, second Councilwoman Michalak to approve the minutes as written.

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

**MOTION CARRIED by unanimous vote** (4-0)

# November 4, 2015 Public Hearing-Local Law 5 Tax Cap Override: Motion Deputy Supervisor Underhill, second Councilman Zambito to approve the minutes as written.

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

**MOTION CARRIED** **by unanimous vote** (4-0)

# November 4, 2015 Public Hearing-Sewer Rates: Motion Deputy Supervisor Underhill, second Councilman Zambito to approve the minutes as written.

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

**MOTION CARRIED** **by unanimous vote** (4-0)

# November 4, 2015 Public Hearing-Water Rates: Motion Councilman Zambito, second Councilwoman Michalak to approve the minutes as written.

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

**MOTION CARRIED** **by unanimous vote** (4-0)

# November 4, 2015 Public Hearing-2016 Town Budget: Motion Councilman Zambito, second Deputy Supervisor Underhill to approve the minutes as written.

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

**MOTION CARRIED** **by unanimous vote** (4-0)

**RESOLUTION NO. 217:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION ADOPTING LOCAL LAW No. 5 of 2015**

**WHEREAS**, proposed Local Law No. 5 of 2015 of the Town of Batavia entitled “A Local Law to Override the Tax Levy Limit Established in General Municipal Law § 3-c for Fiscal Year 2016”, which proposed Local Law in its final form was presented to the Town Board at the meeting held on October 21, 2015, 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 meeting; and

**WHEREAS**, a public hearing on the advisability of enacting said proposed Local Law was held on November 4, 2015, 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 No. 5 of 2015 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 No. 5 of 2015 be and the same hereby is adopted; and

**BE IT FURTHER RESOLVED**, that a certified copy of said Local Law No. 5 of 2015 be filed with the New York State Secretary of State in accordance with Law.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 218:**

Supervisor Post offered the following:

## TOWN OF BATAVIA SEWER RENTS – 2016

**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 2016 has been set at five dollars and sixty-two cents ($5.62) per 1000 gallons;

**WHEREAS,** in Sewer District No. 2 the sewer rents for 2016 has been set at five dollars and sixty-two cents ($5.62) per 1000 gallons;

**WHEREAS,** as required by law and in conjunction with the public hearing held November 4, 2015 for the 2016 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, 2016.

**RESOLVED,** the sewer rents are to be paid quarterly in the months of May, August and November, 2016 and February, 2017.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 219:**

Councilwoman Michalak offered the following:

## TOWN OF BATAVIA WATER RATES – 2016

**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 4, 2015 for the establishment of the 2016 water rates; and

**WHEREAS**, the base water rate for May 2016 to February 2017 is set at $4.95/1,000.

**WHEREAS**, the agricultural water rate for May 2016 to February 2017 is $3.31/1,000 gallons; and

**WHEREAS**, the base rate applies to all meters that are not dedicated to use within farming operations; and

**WHEREAS,** the agricultural rate applies to all meters serving parcels in a Certified Agricultural District and dedicated to use in farming operations, including providing drinking water for livestock, irrigation of crops, and operations related directly to agriculture. This rate does not apply to meters that also serve domestic, commercial, or industrial uses, and

**WHEREAS**, the formula for the Base Rate is

100% of the water purchase cost

100% of the Genesee County water surcharge cost

100% of the Town’s debt reserve cost

100% of the Town’s Operation and Maintenance cost

**WHEREAS**, the formula for the new Agricultural Rate is

100% of the water purchase cost

100% of the Genesee County water surcharge cost

100% of the Town’s debt reserve cost

10% of the Town’s Operation and Maintenance cost

**NOW, THEREFORE, BE IT**

**RESOLVED,** the Batavia Town Board hereby authorizes the imposition of the aforementioned base water rate and agricultural water rate for one (1) year beginning January 1, 2016, and be it further

**RESOLVED,** the water usage is to be billed quarterly and are to be paid quarterly in the months of May, August and November, 2016 and February, 2017.

**Second by:** Deputy Supervisor Underhill

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 220:**

Councilman Zambito offered the following:

## ADOPTION OF 2016 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; and

**WHEREAS,** the 2016 Preliminary Budget was adopted on October 21, 2015 and after which a Public Hearing was held on November 4, 2015 for all interested parties to be heard; and

**WHEREAS,** on November 18, 2015 the 2016 Preliminary Budget was revised to include the Pratt Road Water Debt Service.

**NOW, THEREFORE, BE IT**

**RESOLVED,** the Batavia Town Board hereby adopts the November 18, 2015 Revised Preliminary Town Budget as the 2016 Annual Budget of the Town of Batavia.

**Second by:** Deputy Supervisor Underhill

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 221:**

Deputy Supervisor Underhill 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 16, 2015 at the Batavia Town Hall at 7:00 o’clock p.m.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote** (4-0)

TOWN OF BATAVIA FIRE DEPARTMENT AGREEMENT

**THIS AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2015*,* by and between the **TOWN OF BATAVIA**, **NEW YORK**, (hereinafter designated as “Town”) and the **TOWN OF BATAVIA FIRE DEPARTMENT, INC.** of Batavia, New York, (hereinafter designated as “Fire Department”).

**WITNESSETH**:

**WHEREAS**, there has been duly established in the said Town of Batavia a fire protection district known as the "Town of Batavia Fire Protection District" as such' territory is more fully described in the Resolution establishing such District and duly adopted by the Town Board of the said Town of Batavia, Genesee County, New York on 24th day of March, 1948; and

**WHEREAS**, following a public hearing duly called, the said Town has duly authorized a Contract with the Fire Department for fire protection in said District upon the terms and conditions herein set forth; and

**WHEREAS**, this Agreement has also been duly authorized by the Directors and membership of the Fire Department, and the Fire Department has provided ­to the Town certified copies of Resolutions of approval of this Agreement by the Town of Batavia Fire Department Board of Directors and by its membership.

**NOW, THEREFORE**, the Town does engage the Fire Department to furnish fire protection to said District and the Fire Department agrees to furnish such protection in the manner following, to wit:

1. The equipment and personnel of the Fire Department shall at all times during the term of this Agreement be subject to call for attendance upon any fire occurring in such District, and when notified by any means of a fire within the District, said Fire Department shall respond and attend upon the fire without delay with one or more companies and with suitable fire-fighting equipment and apparatus of the Fire Department. Upon arriving at the scene of the fire, the firefighters of the Fire Department attending shall proceed diligently and in every way reasonably suggested under the circumstances to the extinguishments of the fire and the saving of life and property in connection therewith.

2. The Fire Department covenants and agrees at all times to maintain in force on and in respect to vehicles and equipment owned by it or subject to its control or use, while responding to, attending at or leaving from fires, alarms or calls both inside and outside said District, including, but not limited to, responses in connection with Mutual Aid Plan referred to in Paragraph 5 of this Agreement, an underlying public liability insurance policy for injury to persons and property, including wrongful death, with limits of $500,000.00 for each person, $1,000,000.00 for each accident and $250,000.00 property damage for each accident and an excess public liability policy in the amount of $3,000,000.00 insuring the Fire Department and the Town against any loss by reasons of personal injury including wrongful death, or property damage caused or contributed to by the negligent operation of said vehicles and/or equipment in connection with a fire, alarm or call in or from said District or in connection with a mutual aid response. In addition, the Fire Department agrees at all times to maintain in force public liability insurance to protect itself and the Town from all other losses occurring in its operations other than those arising out of the use and operation of said vehicles and/or equipment to persons for injury, including wrongful death, and to property in amounts for underlying and excess liability similar to that maintained for vehicles and/or equipment. All liability insurance policies must be obtained through insurance companies licensed to do business within the State of New York, must name the Town of Batavia as insured and must be maintained for the life of this Agreement.

The Fire Department shall deliver a copy of the policy of said insurance to the Town prior to the execution of this Agreement, covenants to pay the premiums thereon in timely fashion and to have said insurance policies provide for thirty (30) days written notice to the Town prior to cancellation. If the Fire Department shall fail to pay said premiums due hereunder in a timely fashion, the Town shall have the right to pay the same and to deduct the cost thereof from the amounts due the Fire Department under paragraph 7 of this Agreement.

In addition, the Fire Department hereby covenants and agrees to indemnify and hold the Town harmless from any and all losses and damages which the Town may sustain, suffer or be required to pay by reason of any claims made against said Town for injury to persons or property, including wrongful death, arising out of the performance of this agreement by the Fire Department to the extent that said losses and damages are not fully covered and paid by the insurance referred to herein.

3. Should any loss or damage whatsoever be sustained to the fire apparatus or other equipment, said loss or damage, including the cost of materials and any other special or incidental expenses incurred in the operation of the fire apparatus or equipment of the Fire Department in answering, attending upon or returning from a call for assistance in said Town of Batavia Fire Protection District, irrespective of the cause thereof, shall be a charge upon the Fire Department and not against the Town or against the Town of Batavia Fire Protection District. This fact is taken into consideration by both parties in arriving at the consideration to be paid to the Fire Department pursuant to this Agreement.

4. To the extent that the same is not otherwise provided for by the Genesee County Mutual Aid Plan, by the county of Genesee or by some other source, the Town of Batavia shall pay at its own expense or provide necessary insurance coverage at its expense for any and all claims authorized by law for medical expenses, loss of wages, compensation or other claims arising by reason of the injury or death of a fireman, or member of the Fire Department Emergency Relief Squad, a Fire Police Squad or a Fire Patrol sustained while answering or attending upon or returning from any such call in said District.

5. The Fire Department is hereby authorized by the Town to participate in the Genesee County Mutual Aid Plan and to answer calls for aid and assistance according to said Mutual Aid Plan and System. Nothing contained in this Agreement shall be deemed to prevent the Fire Department from securing reimbursement from any entities other than the Town and the Town of Batavia Fire Protection District for either any loss or damage to its fire apparatus, equipment or materials used for the locality that issues a call for aid or for payments to injured or deceased firemen as provided by any law of the State of New York.

6. In the event that the fire-fighting equipment owned by the Fire Department is in such condition that said Fire Department is unable to fulfill its obligations under this contract to answer or attend any fire occurring in said Town of Batavia Fire Protection District for a period of twenty-one (21) days or longer, the Fire Department covenants to reimburse the Town on a pro rata basis the sums provided to be paid to the Fire Department pursuant to this Agreement retroactive to the first day of said twenty-one (21) day period for the entire period of time during which it is unable to fulfill its obligations under this Agreement.

7. A**.** The Town covenants and agrees to pay to the Fire Department in consideration for services to be performed pursuant to this Agreement the sum of Eight Hundred Thirty-Nine Thousand Thirty-Seven Dollars ($839,037.00).

B. The sums as stated in section A of this paragraph to be due and payable on the 1st day of February, 2016, upon presentation to the Town of a duly verified voucher therefore.

8. The Town covenants to provide snowplowing services for the parking and driveway area to the Fire Hall owned by the Fire Department, as well as routine maintenance of said parking lot and driveway area, both only to the extent that the Superintendent of Highways of the Town determines that said services can be provided. The Fire Department agrees to provide all materials and supplies for said maintenance services; acknowledges that said routine maintenance services shall be provided only during normal business hours of the Town of Batavia Highway Department and as other Town Highway Department functions permit. The Fire Department further acknowledges that said snowplowing services shall be provided only after the Town's Superintendent of Highways is satisfied that the highways of the Town of Batavia are reasonably free and clear of ice and snow and that men and machinery under his supervision and control are free to provide said services. The Fire Department hereby covenants to indemnify and to hold the Town harmless for any injury, loss or damage which the Fire Department or any other person, firm or corporation may suffer, sustain or be required to pay by reason of the Town not providing or failing to provide adequate snowplowing and/or maintenance services under the provisions of this Paragraph.

9. **On or before April 1, 2016,** the Fire Department will provide an independent, certified audit of the financial affairs of the Fire Department.

10. A. The Fire Department shall provide written notice to the Town of capital purchases as early as possible, but in no event not less than 30 days prior thereto; provided, however, that this provision shall not be construed as requiring or constituting any municipal approval or involvement in the corporate affairs of the Fire Department by the Town.

B. The Fire Department shall continue to exercise sound financial practices and planning, including maintenance of capital reserve accounts where feasible.

11. All moneys to be paid under any provision of this Agreement, as well as other payments which may be made from time to time according to applicable provisions of law which regulate the terms and provisions of this Agreement, shall be a charge upon the said Fire Protection District to be assessed and levied upon the taxable real property in said District and collected with the Town Taxes.

12. This Agreement shall become operative and effective from 12:01 a.m. January 1, 2016, and shall continue for a term of one (1) year which will expire at midnight on December 31, 2016.

13. It is understood and agreed that this contract is subject to the provisions of Section 184 of the Town Law of the State of New York.

**IN WITNESS WHEREOF,** the parties have duly executed and delivered this Agreement in duplicate the day and year first above written.

TOWN BOARD OF THE TOWN OF BATAVIA

BY

GREGORY H. POST

(SEAL)

ATTEST:

TERESSA M. MORASCO, TOWN CLERK

TOWN OF BATAVIA FIRE DEPARTMENT, INC.

BY

JOHN FITZSIMMONS, PRESIDENT

(SEAL)

**STATE OF NEW YORK)**

**COUNTY OF GENESEE) ss:**

On the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2015, before me came GREGORY H. POST, to me known, who, being by me duly sworn, did depose and say that he resides at 8472 Seven Strings Road in the Town of Batavia, New York; and he is the Supervisor of the **TOWN** **OF BATAVIA, NEW YORK** the municipal corporation described in and who executed the foregoing Agreement; that he knows the seal of said Town; that it was affixed by order of the Town Board of said Town; and that he signed his name thereto by like order.

**NOTARY PUBLIC**

**STATE OF NEW YORK)**

**COUNTY OF GENESEE) ss:**

On the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2015, before me came John Fitzsimmons**,** to me known, who, being by me duly sworn, did depose and say that, he resides at5009 East Main Street Road, Batavia, New York; and he is the President of the **TOWN OF BATAVIA FIRE DEPARTMENT, INC.** the corporation described in and which executed the foregoing Agreement; that he knows the seal of said Corporation; that it was affixed by order of the Board of Directors of said Corporation; and that he signed his name thereto by like order.

**NOTARY PUBLIC**

**RESOLUTION NO. 222:**

Supervisor Post offered the following:

### TRAINING WORKSHOP

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

Rhonda Saulsbury- Pro-Serve/Oars Website Training (was) November 5, 2015. There was no cost for this training and a Town Vehicle was used.

John Della Penna, Gary Diegelman, Kathy Jasinski, Jon Long, Paul Marchese, and Lou Paganello -2015 GFLRPC Fall Local Government Workshop (was) November 13, 2015. The cost for this training was $75.00 each.

Tom Lichtenthal and Jason Armbrewster- NYSDEC Erosion Control Training November 19, 2015. The cost for this training is $100.00 each.

Hiedi Librock and Marcy Crandall- GFOA Western Region Holiday Seminar December 3, 2015. The cost of the training is $55.00 each and a Town vehicle will be used.

Town Personnel- GGSG Zoning Workshop December 2, 2015. There is no cost for this workshop.

Teressa Morasco- NYSTCA Regional Training December 7, 2015. The cost of the training is $35.00.

**Second by:** Councilwoman Michalak

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 223:**

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 2016 (November 27, 2015 through November 27, 2016) has been quoted at fifty-nine thousand, eight hundred, eighty-nine dollars ($59,889.00 attached); and

**WHEREAS,** as of June 2015 NYMIR began offering Cyber Coverage as an endorsement to the General Liability Policy; and

**WHEREAS,** the Cyber Coverage for 2016 (November 27, 2015 through November 27, 2016) has been quoted at six hundred twenty-seven dollars ($627.00).

**NOW, THEREFORE, BE IT**

**RESOLVED,** the Batavia Town Board hereby retains New York Municipal Insurance Reciprocal to provide insurance coverage for the Town in the amount fifty-nine thousand, eight hundred, eighty-nine dollars ($59,889.00), along with Cyber Coverage at a cost of six hundred twenty-seven dollars ($627.00), copies of which are annexed hereto and made a part of the minutes; and be it

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

**Second by:** Councilman Zambito

Ayes: Michalak, Zambito, Underhill, Post

APPROVED by unanimous vote (4-0)

**RESOLUTION NO. 224:**

Councilman Zambito offered the following:

## EXCESS EMPLOYER’S LIABILITY INSURANCE

**RESOLVED,** the Batavia Town Board hereby retains Franz-Manno Service Corporation 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:** Councilwoman Michalak

Ayes: Zambito, Michalak, Underhill, Post

APPROVED by unanimous vote (4-0)

**RESOLUTION NO. 225:**

Deputy Supervisor Underhill offered the following:

HEALTH INSURANCE FOR TOWN EMPLOYEES

**WHEREAS,** the Town of Batavia currently provides Health Insurance to Town employees through Blue Cross Blue Shield of Western New York; and

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

**WHEREAS**, the Supervisor and Secretary to the Supervisor reviewed several Health Insurance Plans and premium rates with EMS Financial Services, LLC, Broker Agency for the Town; and

**WHEREAS,** Blue Cross Blues Shield Silver Plan continues to be the best plan for the cost and comparison; and

**WHEREAS,** the new rates for Health Insurance from Blue Cross Blue Shield are: employee only plan is $390.71, employee & spouse plan is $781.42, employee & child(ren) is $664.21 and family plan is $1,113.52 per month; and

**WHEREAS,** employees hired prior to September 18, 2013 contribute five percent (5%) of the monthly cost of health insurance; and

**WHEREAS,** employees hired after September 17, 2013 must contribute twenty-five (25%) of the monthly cost of health insurance; 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 HRA will continue to be through P&A Group, Buffalo, New York.

## NOW, THEREFORE, BE IT

**RESOLVED,** the Batavia Town Board hereby authorizes Town Employee Health Insurance Coverage with Blue Cross Blue Shield and EMS Financial Services, as the Broker Agency at a cost $390.71, employee & spouse plan is $781.42, employee & child(ren) is $664.21 and family plan is $1,113.52 per month; and be it

**FURTHER RESOLVED,** the Supervisor is hereby authorized to execute any necessary documents with Blue Cross Blue Shield, EMS Financial Services, and P&A Group; and be it

**FURTHER RESOLVED,** the Batavia Town Board hereby authorizes continuing the Health Reimbursement Arrangement (HRA) for employees medical co-pays; and

**FURTHER RESOLVED,** employees hired prior to September 18, 2013 will continue to contribute five percent (5%) and employees hired after September 17, 2013 will continue to contribute twenty-five (25%) of the monthly cost of health insurance.

**Second by:** Councilwoman Michalak

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 226:**

Supervisor Post offered the following:

## AUTHORIZING BUDGET TRANSFERS FOR 2015

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

**General Fund:**

From Amount To

|  |  |  |
| --- | --- | --- |
| A1989.400 Miscellaneous Exp | 1000.00 | A1220.400 Supv Contr |
| A1420.404 Attorney Assessment Lit | 1968.00 | A1380.401 Fiscal Agent Fees |
| A1620.403 Bldg Janitorial | 3000.00 | A1620.101 Bldg –Pers Svc |
| A1989.400 Misc Exp | 71.00 | A1940.400 Land Acquisition |
| A1420.400 Attorney | 5343.00 | A3620.402 Bldg & Saf Insp – Engineering |
| A1989.400 Misc Exp | 135.00 | A4250.400 Alcoholic Addiction Testing |
| A6326.400 Economic Opportunities | 1675.00 | A6410.400 Publicity |
| A7110.401 Parks – Galloway | 738.00 | A7110.400 Parks Contr |
| A8020.405 Planning Board Master Plan | 227.00 | A8020.404 Planning Board – Code Update |
| A8120.200 Sewer Impr – Equipment | 438.00 | A8120.400 Sewer Imp Contr |
| A8164.400 San Landfill – Fuel | 362.00 | A8164.102 San Landfill – Pers Svc |
| A8165.400 Superfund Fuel | 301.00 | A8165.102 Superfund Pers Svc |
| A8165.400 Superfund Fuel | 371.00 | A8165.402 Superfund Eng |
| A8165.404 Superfund Legal | 2069.00 | A8165.403 Superfund Env Testing |
| A8165.407 Superfund Leachate | 591.00 | A8165.406 Superfund Post Maint |
| A9055.800 Disb Ins | 2000.00 | A9060.801Health Ins Medical Reimb |
| A9089.802 Satff Development | 1500.00 | A9060.801Health Ins Medical Reimb |

**Highway Fund:**

From Amount To

|  |  |  |
| --- | --- | --- |
| DA5110.102 Pers Svc Longevity | 500.00 | DA5110.101 Pers Svc PT |
| DA9089.803 Medical Insurance | 16400.00 | DA5142.400 Snow Removal |
| DA9010.800 State Retirement | 16246.00 | DA5142.400 Snow Removal |
| DA9010.800 State Retirement | 5879.00 | DA5142.103 Snow Removal Pers Svc OT |
| DA9010.800 State Retirement | 43.00 | DA5140.400 Brush & weeds Contr |
| DA9010.800 State Retirement | 1546.00 | DA5130.400 Machinery Contr |
| DA9089.803 Medical Reimb | 5558.00 | DA5130.400 Machinery Contr |

**Sewer Dist 1 Fund:**

From Amount To

|  |  |  |
| --- | --- | --- |
| SS1-8120.404 San Swr Replacement | 3083.00 | SS1-8120.200 San Swr Equipment |
| SS1-8120.404 San Swr Replacement | 1220.00 | SS1-8120.107 San Swr Pers Svc |
| SS1-8120.404 San Swr Replacement | 280.00 | SS1-8120.104 San Swr Pers Svc |
| SS1-8120.404 San Swr Replacement | 417.00 | SS1-8120.120 San Swr Pers Svc |
| SS1-8120.401 San Swr Legal Svc | 513.00 | SS1-8120.120 San Swr Pers Svc |
| SS1-8120.401 San Swr Legal Svc | 10.00 | SS1-9089.802 Uniforms |
| SS1-8110.401 Wtr Admin Backflow | 4285.00 | SS1-9060.800 Health Insurance |

**Sewer Dist 2 Fund:**

From Amount To

|  |  |  |
| --- | --- | --- |
| SS2-8120.406 San Swr Repair | 20500.00 | SS2-8120.102 San swrt Pers Svc |
| SS2-8120.406 San Swr Repair | 3083.00 | SS2-8120.200 San Swr Equipment |
| SS2-8120.406 San Swr Repair | 2447.00 | SS2-8120.120 San Swr Pers Svc |
| SS2-8120.406 San Swr Repair | 1220.00 | SS2-8120.107 San Swr Pers Svc |
| SS2-8120.406 San Swr Repair | 280.00 | SS2-8120.404 San Swr Pers Svc |
| SS2-8120.406 San Swr Repair | 975.00 | SS2-9030.800 Soc Sec |
| SS2-8110.403 Backflow Cons | 4285.00 | SS2-9060.800 Health Ins |
| SS2-8110.403 Backflow Cons | 25.00 | SS2-9089.802 Uniforms |

**Water DistrictFund:**

From Amount To

|  |  |  |
| --- | --- | --- |
| SW9710.711 Serial Bonds Creek Rd | 8527.00 | SW9730.711 Ban Creek Road |
| SW8310.401 Backflow Cons | 15000.00 | SW9060.800 Health Ins |
| SW8310.403 Wtr Admin Sons | 6328.00 | SW9060.800 Health Ins |

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 227:**

Councilwoman Michalak offered the following:

## ESTABLISH LINE ITEMS

**FOR HIGHWAY EQUIPMENT**

**CAPITAL PROJECTS**

**RESOLVED,** the Batavia Town Board hereby establishes the following line items:

HZ1380.400 Fiscal Agent - Contractual

HZ1420.400 Legal Expense - Contractual

HZ5130.200 Equipment

HZ5197.200 Equipment & Capital Outlay

HZ200 Cash

HZ626 BAN Payable

HZ5731 BAN Redeemed From Appropriations

**Second by:**  Councilman Zambito

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 228:**

Councilman Zambito offered the following:

### PART-TIME

### ON CALL/AS NEEDED

### MOTOR EQUIPMENT OPERATOR

### HIGHWAY DEPARTMENT

**WHEREAS**, the Highway Department is in need of a part-time Motor Equipment Operator (MEO) employee on an on-call, as needed bases; and

**WHEREAS**, the Highway Superintendent received and reviewed applications to hire an MEO on an on-call, as needed bases.

**NOW, THEREFORE, BE IT**

**RESOLVED,** the Batavia Town Board hereby authorizes the Highway Superintendent to hire David Merritt for the Highway Department as a part-time MEO, on an on-call, as needed bases at a rate of twenty dollars ($20.00) per hour, not to exceed 40 hours per week with a start date on or after November 19, 2015; and be it

**FURTHER RESOLVED,** the expenditure will be appropriated from line item DA5142.101; and

**FURTHER RESOLVED,** as per the Town of Batavia policy, Mr. Merritt is subject to a physical, background and driver’s license check and drug and alcohol testing; and be it

**FURTHER RESOLVED,** there is a six month probationary period for this position, at which time an evaluation of performance will be accessed for an increase in pay or dismissal of duties.

**Second by:** Councilwoman Michalak

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 229:**

Deputy Supervisor Underhill offered the following:

**AMENDMENT NO. 1 TO**

**AUTHORIZATION TO ENTER INTO AGREEMENT FOR THE IMPLEMENTATION OF CONSOLIDATED FUNDING AWARD RECEIVED FROM THE NEW YORK STATE**

**ENERGY RESEARCH AND DEVELOPMENT AUTHORITY**

**WHEREAS,** the Town of Batavia (“Town”) received a 2013 Consolidated Funding Award (CFA) for a New York State Energy Research and Development Authority (NYSERDA) Cleaner, Greener Community Grant in the amount of $175,000.00 for Green Genesee/Smart Genesee Road Map project, (CFA #31078/Contract #39518); and

**WHEREAS**, the Town of Batavia and the NYSERDA entered into an agreement in September 2014, with the term of the agreement expiring June 30, 2016; and

**WHEREAS**, NYSERDA has submitted an amendment to Agreement No. 39518 to extend the project agreement to December 31, 2016 and amend Exhibit A.

**NOW, THEREFORE BE IT**

**RESOLVED**, that the Batavia Town Board hereby authorizes the Supervisor to execute Amendment No. 1 to Agreement No. 39518 between New York State Energy Research and Development Authority and the Town of Batavia, a copy of which is annexed hereto and made a part of the minutes.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 230:**

Supervisor Post offered the following:

**RESOLUTION TO ADOPT A NEGATIVE DECLARATION**

**WHEREAS**, in accordance with the State Environmental Quality Review Act (SEQR), the proposed Local Law No. 6 of 2015 to provide for amendments of portions of the Zoning Ordinance, is an Unlisted Action; and

**WHEREAS**, the Batavia Town Board acting as Lead Agency has reviewed the SEQR Short Environmental Assessment Form; and

**WHEREAS**, it has been determined that the proposed amendments will not have an adverse impact on the environment.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of Batavia, New York hereby directs the Supervisor to prepare the Negative Declaration Notice of Determination of Non-Significance with regard to Local Law No. 6 of 2015 that provides for the amendments of the Town of Batavia Zoning Ordinance.

**Second by:** Deputy Supervisor Underhill

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 231:**

Councilwoman Michalak offered the following:

RESOLUTION ADOPTING LOCAL LAW No. 6 of 2015

**WHEREAS**, proposed Local Law No. 6 of 2015 of the Town of Batavia entitled “A Local Law to Amend the Town of Batavia Zoning Ordinance to Add Criteria for Solar Energy Systems”, which proposed Local Law in its final form was presented to the Town Board at the meeting held on October 21, 2015, and a copy thereof was kept with the Town Clerk and copies were both laid upon the desks of the members of said Town Board and mailed to each member of the Town Board not in attendance at said meeting, at least ten (10) days, exclusive of Sundays, prior to its final passage; and

**WHEREAS**, a public hearing on the advisability of enacting said proposed Local Law was held on November 18, 2015, 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**, all required referrals to the Genesee County Planning Board and the Batavia Town Planning Board, as well as all required publications and postings, have been properly completed; and

**WHEREAS**, the Town Board of the Town of Batavia, New York, is of the opinion that adoption of said proposed Local Law No. 6 of 2015 is in the best interests 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 No. 6 of 2015, be and the same hereby is adopted, and such Local Law shall be entered in the minutes of the Batavia Town Board; and

**BE IT FURTHER RESOLVED**, that the Town of Batavia Zoning Ordinance is hereby amended as more fully set forth in said Local Law; and

**BE IT FURTHER RESOLVED**, that certified copies of said Local Law No. 6 of 2015 be filed with the New York State Secretary of State in accordance with Law; and

**BE IT FURTHER RESOLVED** that a summary of this provisions pursuant to Local Law No. 6 of 2015 be published once in The Daily News and that an affidavit of publication thereof be filed with the Town Clerk; and

**BE IT FURTHER RESOLVED**, that this Local Law shall become effective as provided by law upon its filing in the Office of the Secretary of State.

**Second by:**  Deputy Supervisor Underhill

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 232:**

Councilman Zambito offered the following:

**RESOLUTION TO APPROVE AN AMENDMENT TO**

**AGREEMENT FOR THE**

**ELLICOTT TRAIL PROJECT**

**PIN 476079**

**WHEREAS**, the New York State Department of Transportation, (hereinafter referred to as “NYSDOT”), administers this funding program, and has proposed an amendment to the “Federal Aid Local Project Agreement”, (hereinafter referred to as the “Agreement”), and

**WHEREAS**, the Town of Batavia entered into an agreement with the NYSDOT in June 2014 for $69,000 for the preliminary design phase of the project; and

**WHEREAS,** the NYSDOT has submitted the annexed amendment to schedule A of the agreement to increase the project funding amount to a total of $171,000 for both the preliminary ($69,000) and final ($102,000) design phases, by revising the Appendix and Appendix 2-S,

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, that the aforesaid “Federal Aid Local Project Agreement”, amended Schedule A and added Appendix 2-S, annexed thereto, is hereby approved, and the Town will comply with all of the terms and conditions therein, and it is further

**RESOLVED** that the Town Board does hereby authorize and approve the design phase of the project at a new total cost of $171,000.00 for the work on the Project covered by the Agreement with the sum of $133,350.00 to be reimbursed by Federal aid, leaving the sum of $37,650.00 as the local share, and it is further

**RESOLVED** that the aforesaid sum of $171,000.00 is hereby appropriated and made available to cover the cost of participation in the above phase of the Project set forth in the Agreement, and it is further

**RESOLVED** that the Town Supervisor and the Town Attorney are hereby authorized and directed to execute the aforesaid Amendment to the Agreement and any and all other Agreements, certifications or documents needed for Federal-Aid and/or Marchiselli-Aid, on behalf of the Town of Batavia with the NYSDOT in connection with the advancement or approval of the Project, and providing for the administration of the Project and the Town’s initial funding of the Project cost and permanent funding of the local share of the federal-aid and state-aid eligible Project costs and all Project costs within appropriations thereof that are not so eligible, and it is further

**RESOLVED** that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by annexing it to any necessary Agreement in connection with the Project, and it is further

**RESOLVED** that this Resolution shall take effect immediately.

**Second by:** Deputy Supervisor Underhill

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

**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 233:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO RETAIN COHEN LAW GROUP**

**FOR TIME WARNER CABLE FRANCHISE NEGOTIATIONS**

**WHEREAS**, the Cohen Law Group has submitted a proposal to Genesee Association of Municipalities (GAM) to provide legal services for negotiating franchise renewal agreements as a joint effort to municipalities; and

**WHEREAS,** this will increase each Town’s negotiating leverage and reduce each Town’s attorney fees based on the number of municipalities that participate in this joint effort; and

**WHEREAS,** the Town of Batavia’s Time Warner Cable Franchise will expire in 2018.

**NOW, THEREFORE, BE IT**

**RESOLVED,** the Batavia Town Board hereby wishes to engage the services of the Cohen Law Group to assist in cable franchise transfer and renewal negotiations with Time Warner; pursuant to the Proposal to GAM dated October 7, 2015, a copy of which is annexed hereto and made a part of the minutes; and be it

**FURTHER RESOLVED,** the Town Supervisor is authorized to execute and send the engagement letter to Cohen Law Group; and be it

**FURTHER RESOLVED,** the flat fee price for the Town of Batavia will not exceed $6,500, single municipality cost, but will be discounted based on the number of municipalities that participate in this joint effort; and be it

**FURTHER RESOLVED** the flat fee does not include expenses such as travel, postage and copying expenses nor does the flat fee include extraordinary services requested outside the scope of services in this proposal.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote** (4-0)

**Abstract No. 11-2015:** Motion Deputy Supervisor Underhill, second Councilman Zambito to authorize the Supervisor to pay the following vouchers:

|  |  |
| --- | --- |
| General | $270,896.20 |
| Highway | 52,503.59 |
| Sewer No. 1 | 87,305.74 |
| Sewer No. 2 | 62,764.31 |
| Water | 245,673.82 |
| Ellicott Trail | 4,422.55 |
| Townline Joint Water | 670,409.43 |
| Pratt | 261.00 |
|  |  |
| **Total** | **$1,394.236.64** |

Check numbers 20383 thru 20464, SM: 1041thru 1048, ACH: $2,812.50, Online: $5,900.17

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

**MOTION CARRIED by unanimous vote** (4-0)

**DEPARTMENT REPORTS:**

**Supervisor’s Report:**

**Status Report** on expenditures and revenues is available for the Board’s review

**GAM** meeting is tomorrow evening at 7:00 P.M., hosted by the Town of LeRoy.

**COMMUNICATIONS:**

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

**October Town Clerk monthly report collected a** total of $20,210.78, remitted $16,837.81 to the Supervisor for the Local Share.

**Dog Census** mailing went out last week and we’re receiving responses.

Happy Thanksgiving!!

**ADJOURNMENT:**

Motion Councilman Zambito, second Deputy Supervisor Underhill to adjourn the Regular Town Board Meeting at 7:40 P.M.

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

**MOTION CARRIED by unanimous vote** (4-0)

Respectfully submitted,

Teressa M. Morasco

Town Clerk