

**JANUARY 6, 2016  
SPECIAL TOWN BOARD MEETING**

**Town Hall**

**Roll Call**

**Present:** Supervisor Post  
Deputy Supervisor Underhill  
Councilwoman White  
Councilwoman Michalak  
Councilman Zambito

**Others**

**Present:** Town Clerk Morasco  
Jim Krencik, Daily News  
Mike Pettinella, Buffalo News

The Supervisor called the meeting to order at 7:31 P.M.

**RESOLUTION NO. 25:**

Councilwoman White offered the following:

**PROFESSIONAL IT SERVICES BETWEEN  
HURRICANE TECHNOLOGIES, INC. AND THE TOWN OF BATAVIA**

**RESOLVED**, the Batavia Town Board wishes to retain Hurricane Technologies, Incorporated for professional Information and Technology Services; and be it

**FURTHER RESOLVED**, by the Town Board of the Town of Batavia, New York, that the proposed Prepaid Block Hour Technical Support Services Agreement between the Hurricane Technologies, Incorporated and the Town of Batavia, a copy of which is annexed hereto and made part of the Town Board Minutes, is hereby approved and the Town Supervisor is authorized and directed to sign this Agreement on behalf of the Town of Batavia.

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

**RESOLUTION NO. 26:**

Deputy Supervisor Underhill offered the following:

**LEADERSHIP GENESEE**

**RESOLVED**, the Batavia Town Board hereby authorizes Douglas Smart to participate in the 2016 Leadership Genesee program at a cost of \$2,100.00.

**Second by:** Councilwoman White  
**Ayes:** Underhill, White, Michalak, Zambito, Post

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

**RESOLUTION NO. 27:**

Supervisor Post offered the following:

**CONTRACT TO PROVIDE ASSISTANCE TO EMPLOYEES WHO  
HAVE ALCOHOL, DRUG, FINANCIAL AND OTHER PERSONAL PROBLEMS**

**WHEREAS**, at the November 15, 1995 Town Board Meeting the Town Board adopted an Alcohol and Drug Testing Policy;

**WHEREAS**, the Town wishes to provide assistance to employees who have alcohol, drug, financial and other personal problems;

**WHEREAS**, Royal Employer Services will provide these services to the Town at a cost of three hundred, twenty dollars (\$320.00) annually (contract attached).

**RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the contract between the Town of Batavia and Royal Employer Services to provide assistance to employees who have alcohol, drug, financial, and other personal problems.

**RESOLVED**, this contract runs from January 1, 2016 to December 31, 2016.

**Second by:** Councilwoman Michalak

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

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

**RESOLUTION NO. 28:**

Councilwoman Michalak offered the following:

**DRUG AND ALCOHOL TESTING SERVICES**

**WHEREAS**, at the November 15, 1995 Town Board Meeting the Town Board adopted an Alcohol and Drug Testing Policy;

**WHEREAS**, the Town needs to contract for these testing services;

**WHEREAS**, WorkFit Medical, LLC, will provide these services, for employees holding safety sensitive positions (costs attached).

**RESOLVED**, the Batavia Town Board hereby retains WorkFit Medical, LLC for drug and alcohol testing services, for employees holding safety sensitive positions per costs above;

**RESOLVED**, this service runs from January 1, 2016 to December 31, 2016.

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**Second by:** Councilman Zambito

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

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

**RESOLUTION NO. 29:**

Councilman Zambito offered the following:

**AUDIT SERVICES AGREEMENT –  
BETWEEN THE TOWN OF BATAVIA AND FREED MAXICK & BATTAGLIA, PC**

**RESOLVED**, by the Town Board of the Town of Batavia, New York, that the proposed Auditing Services Agreement between Freed Maxick & Battaglia, PC and the Town of Batavia, a copy of which is annexed hereto and made part of the Town Board Minutes, is hereby approved and the Town Supervisor is authorized and directed to sign this Agreement on behalf of the Town of Batavia.

**Second by:** Councilwoman Michalak

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

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

**RESOLUTION NO. 30:**

Councilwoman White offered the following:

**RESOLUTION TO APPOINT ALTERNATE TOWN PROSECUTOR**

**WHEREAS**, the Town Board has appointed Kevin D. Earl, Esq. to continue to act as the Town Prosecutor to handle certain traffic related offenses pursuant to the authority delegated to him by the Genesee County District Attorney, Lawrence Friedman, and

**WHEREAS**, occasionally, the Town Prosecutor has a conflict of interest that would ethically prevent him from prosecuting charges against certain Defendants, and

**WHEREAS**, the Town Prosecutor has requested that Attorney Robert R. Zickl, be appointed by the Town Board to continue to act as Alternate Town Prosecutor to handle cases in which he has a conflict.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, that Robert R. Zickl, Esq. is hereby appointed as the Alternate Town Prosecutor to prosecute traffic related offenses when the Town Prosecutor has conflicts of interest, and

**BE IT FURTHER RESOLVED** that Robert R. Zickl, Esq. will be compensated at the rate of \$160.00 per hour, for his legal services.

**Second by:** Councilwoman Michalak

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

**RESOLUTION NO. 31:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO APPROVE A SHARED SERVICES AGREEMENT  
WITH THE NYS DEPARTMENT OF TRANSPORTATION**

**WHEREAS**, the New York State Department of Transportation (hereinafter referred to as “NYSDOT”), has an effective mechanism that allows the NYSDOT to provide emergency assistance to municipalities in the absence of a Governor’s Emergency Declaration; and

**WHEREAS**, a proposed Shared Services Agreement has been approved as to form and content by the Town Highway Superintendent and representatives of the NYSDOT.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, that a proposed “Shared Services Agreement Between the New York State Department of Transportation and Town of Batavia” for emergency assistance, a copy of which is annexed and made part of the Town Board Minutes is hereby approved, and the Town Supervisor and Highway Superintendent are authorized and directed to execute this Shared Services Agreement on behalf of the Town, and

**BE IT FURTHER RESOLVED** that the Highway Superintendent and all other employees are authorized and directed to take all steps to perform all duties as are necessary to complete the responsibilities of the Town of Batavia pursuant to this Shared Services Agreement.

**Second by:** Councilwoman Michalak

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

**RESOLUTION NO. 32:**

Supervisor Post offered the following:

**APPLICATION X-TENDER/QUICK SCAN PRO  
MAINTENANCE AGREEMENT  
BETWEEN BIEL’S AND THE TOWN OF BATAVIA**

**WHEREAS**, the Town purchased Documentum Software (Application X-tender & Quick Scan Pro in January 2009 from Biel’s for records management; and

**WHEREAS**, in January 2010 additional modules and applications were purchased from Biel’s through the Local Government Records Management Grant funds received by the Town; and

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**WHEREAS**, the annual maintenance cost for this software is four thousand, one hundred, thirty-seven dollars (\$4,137.00) (agreement attached), the current agreement expires January 13, 2016.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the annual Maintenance Agreement for the Documentum Software between the Town of Batavia and Biel's at a cost of four thousand, one hundred, thirty-seven dollars (\$4,137.00) for one (1) year starting January 14, 2016, a copy of which is annexed hereto and made part of the Town Board Minutes.

**Second by:** Councilwoman Michalak

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

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

**RESOLUTION NO. 33:**

Councilwoman Michalak offered the following:

**FIRST AMENDED CODE ENFORCEMENT AGREEMENT BETWEEN  
THE TOWN OF BATAVIA AND THE TOWN OF BETHANY**

**WHEREAS**, the Town of Batavia and the Town of Bethany entered into a contract entitled "Code Enforcement Agreement Between the Town of Batavia and the Bethany", dated May 2015; and

**WHEREAS**, both Towns desire to continue this relationship for Codes enforced during periods when its Enforcement Officers are unavailable due to illness, vacation and other absences.

**NOW, THEREFORE, BE IT**

**RESOLVED**, pursuant to Article 5-G of the General Municipal Law, the Batavia Town Board wishes to enter into a first amended agreement between the Town of Batavia and the Town of Bethany for Code Enforcement coverage, a copy of which is annexed hereto and made a part of the minutes; and be it

**FURTHER RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement.

**Second by:** Deputy Supervisor Underhill

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

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

**FIRST AMENDED  
CODE ENFORCEMENT  
AGREEMENT**

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**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between the **Town of Bethany**, a municipal corporation with offices at 10510 Bethany Center Road, Bethany, NY 14054 (“Bethany”), and the **Town of Batavia**, a municipal corporation with offices at 3833 West Main Street Road, Batavia, NY 14020 (“Batavia”),

**WHEREAS**, both parties employ Code Enforcement Officers to enforce Zoning Code, Fire and Building Codes and other various codes and regulations, and

**WHEREAS**, each party has identified a need to have its Codes enforced during periods when its Enforcement Officers are unavailable due to illness, vacation and other absences,

**NOW THEREFORE, BE IT RESOLVED**, pursuant to Article 5-G of the General Municipal Law, it is agreed as follows:

**First:** That Bethany shall appoint the Code Enforcement Officer of the Town of Batavia as its Deputy Code Enforcement Officer.

**Second:** That Batavia shall appoint the Code Enforcement Officer of the Town of Bethany as one of its Deputy Code Enforcement Officers.

**Third:** That each party shall establish an hourly rate at which it shall be reimbursed for such times as its Code Enforcement Officer is performing duties in the other Town and the Town receiving such services shall and hereby does agree to pay for such services at said rate. Each party shall also reimburse the other for any expenses paid by the other, including mileage for vehicle use by the officer while in the other party’s Town, or reimburse the officer directly for the use of his personal vehicle in those instances when he uses it for either party’s purposes with prior authorization.

**Fourth:** The rate shall include the hourly cost to the Town for the Code Enforcement Officer’s wages, health insurance, retirement fund contribution, and any other fringe benefits, and shall not exceed such hourly costs.

**Fifth:** Each Town Supervisor shall notify the other Town Supervisor as soon as it becomes known that the services of the Deputy will be necessary, but in no event shall such notice be given less than 72 hours prior to the time when the Deputy is needed. In the event that one of the officers becomes injured, ill or otherwise suddenly incapacitated, the Town supplying the Deputy shall do so as soon as practical, but shall not be required to do so any sooner than 72 hours after notification. It is further understood that each municipality may have or currently has similar agreements with other municipalities and, therefore it is understood that the Deputy may not be available due to services being provided to those other municipalities. In this event the Deputy will be provided on a first come first serve basis.

**Sixth:** Each Town shall indemnify the other against any negligent act and shall name the other as an additional insured on any and all liability insurance policies. Each town shall be responsible for the acts of the deputy enforcement officer when working in its Town and the other shall not be so responsible.

**Seventh:** This agreement shall take effect upon the adoption of resolutions by Town Board agreeing hereto and the authorizing of the respective Supervisors to execute this Agreement and shall be in effect January 1, 2016 through December 31, 2017.

**Eighth:** This agreement may be terminated by either party by giving the other party ninety (90) days notice of intention to terminate and shall become effective on the first day of the month following the expiration of the ninety (90) day period.

**Ninth:** All notices shall be sent to the respective Towns at their addresses as set forth

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above.

**IN WITNESS WHEREOF**, the Towns have caused this Agreement to be signed by the Supervisors and the Town Seal attached on the date first set forth above.

**TOWN OF BETHANY**

**TOWN OF BATAVIA**

\_\_\_\_\_  
**Carl Hyde, Jr., Supervisor**

\_\_\_\_\_  
**Gregory H. Post, Supervisor**

**STATE OF NEW YORK)  
COUNTY OF GENESEE) SS.**

On the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ before me, the undersigned, a Notary Public in and for said State, personally appeared **Carl Hyde, Jr.**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**STATE OF NEW YORK)  
COUNTY OF GENESEE) SS.**

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me, the undersigned, a Notary Public in and for said State, personally appeared **Gregory H. Post**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**RESOLUTION NO. 34:**

Councilman Zambito offered the following:

**GENESEE COMMUNITY COLLEGE-THE BEST CENTER  
GRANT APPLICATION LETTER OF SUPPORT**

**WHEREAS**, Genesee Community College, “The Best Center” is preparing its annual grant proposal for Workplace Safety and Health Training; and

**WHEREAS**, the Town of Batavia has participated in previous years.

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**RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to send a letter of support for Genesee Community College-The BEST Center's submission of a 2016-2017 grant application, such support benefits the Town of Batavia employees continued education at a lower cost.

**Second by:** Deputy Supervisor Underhill

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

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

**ADJOURNMENT:**

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

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

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

Respectfully submitted,

Teressa M. Morasco  
Town Clerk