

**TOWN OF BATAVIA
GENESEE COUNTY, NEW YORK**

EXTRACT OF MINUTES

A meeting of the Town Board of the Town of Batavia, Genesee County, New York was convened in public session at the Town Hall located at 3833 West Main Street Road, in the Town of Batavia, New York on January 18, 2017, at 7:00 o'clock p.m., local time.

The meeting was called to order by the Town Supervisor and, upon roll being called, the following members were:

Councilpersons: Gregory H. Post, Sharon White, Daniel Underhill, Patti Michalak and Chad Zambito

There were absent:

Also present: Teresa M. Morasco, Town Clerk

* * *

The following order was offered by Councilwoman White and seconded by Councilwoman Michalak, to wit;

RESOLUTION NO. 39

A meeting of the Town Board of the Town of Batavia, in the County of Genesee, State of New York, was held at the Town Hall, in the Town, on January 18, 2017.

PRESENT:

Hon. Gregory H. Post, Supervisor
Hon. Daniel Underhill, Councilman/Deputy Supervisor
Hon. Sharon White, Councilwoman
Hon. Patti Michalak, Councilwoman
Hon. Chad Zambito, Councilman

In the Matter of the Establishment of the Batavia Southwest Water District, in the Town of Batavia, in the County of Genesee, New York, pursuant to Article 12 of the Town Law.

**FINAL ORDER ESTABLISHING
BATAVIA SOUTHWEST WATER DISTRICT
JANUARY 18, 2017**

WHEREAS, the Town Board of the Town of Batavia (herein called "Town Board" and "Town", respectively), in the County of Genesee, New York, has received a petition pursuant to Section 191 of the Town Law, for the establishment of the Batavia Southwest Water District in the Town (the "District"), which petition was signed by a number of owners within the District, and was greater than the percentage required by law; and

WHEREAS, such petition was accompanied by a map, plan and report, dated January, 2016, prepared by Steven J. Mountain, P.E., a competent engineer duly licensed by the State of New York, for the establishment of the District; and

WHEREAS, such map, plan and report is on file at the office of the Town Clerk, and available for public inspection at said location; and

WHEREAS, said proposed improvements consist of a project to provide a safe and reliable potable water supply and fire protection in the proposed District; and

WHEREAS, the overall project will generally consist of the construction and installation of approximately 20,400 linear feet of 12-inch and 8-inch water main along various

roads in the Town including, but not limited to, Brown Road, Halstead Road, Wilkinson Road, Lear Road and Upton Road, as well as other such improvements as more fully identified in (or contemplated by) such map, plan and report referred to above, together with all related right-of-way costs, site work and other ancillary work, including hydrants, valves, apparatus, and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the “Project”); and

WHEREAS, the estimated maximum amount proposed to be expended for the Project is estimated to be \$1,210,000; and

WHEREAS, pursuant to the Order duly adopted on March 16, 2016, the Town Board determined to proceed with the proposed establishment of the District and adopted an Order reciting a description of the boundaries of the District, the improvements proposed, the maximum amount proposed to be expended for the construction of the Project in connection with the establishment of the District, the proposed method of financing to be employed, the fact that a map, plan and report describing the same is on file in the Town Clerk’s office and is available for public inspection and specifying April 20, 2016, at 7:00 o’clock p.m. (Prevailing Time) as the time when the Town Board would meet to consider the proposed establishment of the District and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by law; and

WHEREAS, following publication and posting of certified copies of said Order pursuant to Article 12 of the Town Law and after a public hearing duly held by the Town Board at the time and place herein referred to, the Town Board, by resolution duly adopted April 20, 2016, determined that the Petition to Request the Water District was signed and acknowledged or proved or authenticated, as required by law, and was otherwise sufficient, the notice of public hearing was published and posted as required by law and was otherwise sufficient, that all the property and property owners included within the proposed District were benefited thereby, that all the property and property owners benefited were included within the limits of the proposed District, that it was in the public interest to establish the District and approved the establishment of the District and the construction of the Project in connection with the District as hereinabove described at an estimated maximum cost of \$1,210,000; and

WHEREAS, the plan of financing is for a) the application of up to approximately \$500,000 of grant funds from the United States of America, Department of Agriculture – Rural Development Agency and b) the issuance of serial bonds in an aggregate principal amount not to exceed \$710,000, said amount to be offset by the receipt of any additional federal, state, county and/or local funds received, and unless paid from other sources or charges, the costs for the establishment of the District will be by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine to be especially benefited by said District, so much upon and from each as shall be in just proportion to the amount of benefit which the District shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law; and

WHEREAS, permission of the State Comptroller was required with respect to the establishment of the District and the Town submitted an application to the Office of the State Comptroller, Department of Audit and Control, as required by Town Law; and

WHEREAS, the Office of the State Comptroller, Department of Audit and Control reviewed said application and on December 28, 2016, the State Comptroller issued an order that such application of the Town Board of the Town of Batavia for permission to establish the Batavia Southwest Water District was approved and permitted the establishment of said District in accordance with the description referred to in a resolution of April 20, 2016, at an estimated maximum cost of \$1,210,000;

NOW, THEREFORE, be it

ORDERED, that the establishment of the District is hereby approved and will be known as the Batavia Southwest Water District, situate wholly outside of any incorporated village or city, and is bounded and described as follows:

**TOWN OF BATAVIA
PROPOSED BATAVIA SOUTHWEST WATER DISTRICT**

The boundary of the proposed Town of Batavia, Batavia Southwest Water District includes all that tract or parcel of land situated in the Town of Batavia, County of Genesee, State of New York, being described as follows:

Beginning at a point which is the intersection of the Batavia/Alexander Municipal Boundary and the centerline of Upton Road; thence,

1. Westerly, along the Batavia/Alexander Municipal Boundary, a distance of 1,032 feet, more or less, to the southwesterly corner of Tax Parcel number 16.-1-23; thence,
2. Northerly, along the westerly line of Tax Parcel number 16.-1-23, a distance of 693 feet, more or less, to the northwesterly corner of Tax Parcel number 16.-1-23; thence,
3. Westerly, along the southerly line of Tax Parcel number 16.-1-22, a distance of 405 feet, more or less, to the southwesterly corner of Tax Parcel number 16.-1-22; thence,
4. Northerly, along the westerly line of Tax Parcel number 16.-1-22, a distance of 2,664 feet, more or less, to the intersection of the westerly line of Tax Parcel number 16.-1-22 and a southerly line of Tax Parcel number 16.-1-19.11; thence,
5. Westerly, along a southerly line of Tax Parcel number 16.-1-19.11, a distance of 1,248 feet, more or less, to the intersection of the westerly line of Tax Parcel number 16.-1-20 and the southerly and easterly lines of Tax Parcel number 16.-1-19.11; thence,
6. Southerly, along the easterly line of Tax Parcel numbers 16.-1-19.11 and 16.-1-26, a distance of 3,092 feet, more or less, to the southeasterly corner of Tax Parcel number 16.-1-26; thence,

7. Westerly, along the Batavia/Alexander Municipal Boundary, a distance of 5,245 feet, more or less, to a southwesterly corner of the Batavia Municipal Boundary; thence,
8. Northerly, along the Batavia/Darien Municipal Boundary and the Batavia/Pembroke Municipal Boundary, a distance of 2,090 feet, more or less, to the southwesterly corner of Tax Parcel number 16.-1-30.1; thence,
9. Easterly, along the southerly line of Tax Parcel number 16.-1-30.1, a distance of 1,246 feet, more or less, to the northeasterly corner of Tax Parcel number 16.-1-1.111; thence,
10. Northerly, through the lands of Tax Parcel number 16.-1-30.1, a distance of 106 feet, more or less, to the southwesterly corner of Tax Parcel number 16.-1-13; thence,
11. Easterly, following the existing Wilkinson Road Water District along the northerly line of Tax Parcel number 16.-1-30.1, across Wilkinson Road (49.5 feet wide right-of-way), and along a northerly line of Tax Parcel number 16.-1-19.11, a distance of 2,114 feet, more or less, to the southeasterly corner of Tax Parcel number 16.-1-16; thence,
12. Northerly, following the existing Wilkinson Road Water District along a westerly line of Tax Parcel number 16.-1-19.11, across Lear Road (49.5 feet wide right-of-way), and along a westerly line of Tax Parcel number 14.-1-41, a distance of 1,752 feet, more or less, to a northwesterly corner of Tax Parcel number 14.-1-41; thence,
13. Easterly, following the existing Wilkinson Road Water District along the southerly line of Tax Parcel number 14.-1-44, a distance of 16 feet, more or less, to the southeasterly corner of Tax Parcel number 14.-1-44; thence,
14. Northerly, following the existing Wilkinson Road Water District along a westerly line of Tax Parcel number 14.-1-41, a distance of 450 feet, more or less, to the northeasterly corner of Tax Parcel number 14.-1-44; thence,
15. Easterly, following the existing Wilkinson Road Water District along the southerly line of Tax Parcel number 14.-1-45, a distance of 8 feet, more or less, to the southeasterly corner of Tax Parcel number 14.-1-45; thence,
16. Northerly, following the existing Wilkinson Road Water District along a westerly line of Tax Parcel number 14.-1-44, a distance of 494 feet, more or less, to a northwesterly corner of Tax Parcel number 14.-1-41; thence,
17. Easterly, following the existing Wilkinson Road Water District along a northerly line of Tax Parcel number 14.-1-41, a distance of 651 feet, more or less, to the southeasterly corner of Tax Parcel number 14.-1-47; thence,
18. Northerly, following the existing Wilkinson Road Water District along the easterly line of Tax Parcel number 14.-1-47, a distance of 29 feet, more or less, to a northwesterly corner of Tax Parcel number 14.-1-41; thence,
19. Easterly, along a northerly line of Tax Parcel numbers 14.-1-41 and 14.-1-37.111, a distance of 2,042 feet, more or less, to a southeasterly corner of Tax Parcel number 14.-1-21; thence,
20. Northerly, along a westerly line of Tax Parcel number 14.-1-37.111, a distance of 719 feet, more or less, to a northwesterly corner of Tax Parcel number 14.-1-37.111; thence,
21. Easterly, along a northerly line of Tax Parcel number 14.-1-37.111, a distance of 1,022 feet, more or less, to the southeasterly corner of Tax Parcel number 14.-1-72; thence,

22. Northerly, along the westerly line of Tax Parcel numbers 14.-1-35.11, a distance of 1,205 feet, more or less, to the northwesterly corner of Tax Parcel number 14.-1-35.11; thence,
23. Easterly, along the northerly line of Tax Parcel number 14.-1-35.11, across Upton Road (49.5 feet wide right-of-way), and continuing along a northerly line of Tax Parcel number 14.-1-58 a distance of 2,399 feet, more or less, to a northeasterly corner of Tax Parcel number 14.-1-58; thence,
24. Southerly, along an easterly line of Tax Parcel number 14.-1-58, a distance of 1,249 feet, more or less, to a southwesterly corner of Tax Parcel number 14.-1-25.1; thence,
25. Easterly, along a northerly line of Tax Parcel number 14.-1-58, a distance of 387 feet, more or less, to a northeasterly corner of Tax Parcel number 14.-1-58; thence,
26. Southerly, along an easterly line of Tax Parcel number 14.-1-58, a distance of 926 feet, more or less, to the southeasterly corner of Tax Parcel number 14.-1-58; thence,
27. Westerly, following the existing Rose Road Water District along the southerly line of Tax Parcel number 14.-1-58, a distance of 48 feet, more or less, to the northeasterly corner of Tax Parcel number 14.-1-34; thence,
28. Southerly, following the existing Rose Road Water District along the easterly line of Tax Parcel number 14.-1-34, across Rose Road (66 feet wide right-of-way), and continuing along the easterly line of Tax Parcel number 17.-1-1, a distance of 2,027 feet, more or less, to the southwesterly corner of Tax Parcel number 17.-1-3; thence,
29. Easterly, following the existing Rose Road Water District along the northerly line of Tax Parcel number 17.-1-34.121, a distance of 1,547 feet, more or less, to the northeasterly corner of Tax Parcel number 17.-1-34.121; thence,
30. Southerly, following the existing Rose Road Water District along the easterly line of Tax Parcel number 17.-1-34.121, a distance of 115 feet, more or less, to the southeasterly corner of Tax Parcel number 17.-1-34.121; thence,
31. Westerly, following the existing Rose Road Water District along the southerly line of Tax Parcel number 17.-1-34.121, a distance of 18 feet, more or less, to a northeasterly corner of Tax Parcel number 17.-1-33.12; thence,
32. Southerly, following the existing Rose Road Water District along an easterly line of Tax Parcel number 17.-1-33.12, a distance of 219 feet, more or less, to a southwesterly corner of Tax Parcel number 17.-1-3; thence,
33. Easterly, following the existing Rose Road Water District along a northerly line of Tax Parcel number 17.-1-33.12, a distance of 167 feet, more or less, to a northeasterly corner of Tax Parcel number 17.-1-33.12; thence,
34. Southerly, following the existing Rose Road Water District along an easterly line of Tax Parcel number 17.-1-33.12, a distance of 653 feet, more or less, to a southwesterly corner of Tax Parcel number 17.-1-3; thence,
35. Easterly, following the existing Rose Road Water District along a northerly line of Tax Parcel number 17.-1-33.12, a distance of 241 feet, more or less, to a northeasterly corner of Tax Parcel number 17.-1-33.12; thence,
36. Southerly, following the existing Rose Road Water District along an easterly line of Tax Parcel number 17.-1-33.12, a distance of 640 feet, more or less, to the southeasterly corner of Tax Parcel number 17.-1-33.12; thence,

37. Easterly, following the existing Rose Road Water District along a northerly line of Tax Parcel number 17.-1-28.12, a distance of 155 feet, more or less, to the northeasterly corner of Tax Parcel number 17.-1-28.12; thence,
38. Southerly, along an easterly line of Tax Parcel number 17.-1-28.12, a distance of 1,320 feet, more or less, to a southeasterly corner of Tax Parcel number 17.-1-28.12; thence,
39. Westerly, along a southerly line of Tax Parcel number 17.-1-28.12, a distance of 330 feet, more or less, to a northwesterly corner of Tax Parcel number 17.-1-26; thence,
40. Southerly, along an easterly line of Tax Parcel number 17.-1-28.12, a distance of 1,338 feet, more or less, to a southeasterly corner of Tax Parcel number 17.-1-28.12; thence,
41. Westerly, along the Batavia/Alexander Municipal Boundary, a distance of 2,871 feet, more or less, to the point of beginning.

All as shown on the maps prepared by the Town of Batavia entitled, “Batavia Southwest Water District – Water System Improvements,” dated 12/2015. The Town of Batavia, Batavia Southwest Water District, as described above, contains approximately 1,176.0 acres of land.

and be it further:

ORDERED, that the District hereinabove referred to shall be constructed as set forth in the Order Calling the Public Hearing and the resolution establishing the District, at an estimated maximum cost of \$1,210,000, and the plan of financing is by a) the application of up to approximately \$500,000 of grant funds from the United States of America, Department of Agriculture – Rural Development Agency and b) the issuance of serial bonds in an aggregate principal amount not to exceed \$710,000, said amount to be offset by the receipt of any additional federal, state, county and/or local funds received, and unless paid from other sources or charges, the costs for the establishment of the District will be by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine to be especially benefited by said District, so much upon and from each as shall be in just proportion to the amount of benefit which the District shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law; and be it further

ORDERED, that within ten days after adoption of this Order, the Town Clerk shall record with the Clerk of the County of Genesee and file with the Department of Audit and Control in Albany, New York copies of this Order, certified by the Town Clerk

Dated: January 18, 2017

TOWN BOARD OF THE
TOWN OF BATAVIA

The question of the adoption of the foregoing order was duly put to vote on a roll call, which resulted as follows:

AYES: Councilwoman White

Councilwoman Michalak

Councilman Zambito

Deputy Supervisor Underhill

Supervisor Post

NOES:

ABSENT:

The foregoing order was thereupon declared duly adopted.

CLERK'S CERTIFICATE
(Batavia Southwest Water District)

STATE OF NEW YORK)
)SS:
COUNTY OF GENESEE)

I the undersigned Town Clerk of the Town of Batavia, in the County of Genesee, State of New York, DO HEREBY CERTIFY that I have compared the preceding Final Order Establishing District with the original thereof filed in my office on January 18, 2017, and that the same is a true and correct copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town January 19, 2017.

Town Clerk

(SEAL)