

**AUGUST 17, 2016  
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  
Councilwoman White  
Councilwoman Michalak

**Absent:** Councilman Zambito  
Town Clerk Morasco

**Others**

**Present:** Deputy Town Clerk Baubie

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

**July 20, 2016 Regular Town Board Meeting:** Motion Deputy Supervisor Underhill, second Councilwoman Michalak to approve the minutes as written.

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

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

**RESOLUTION NO. 145:**

Councilwoman White offered the following:

**RESOLUTION TO RETAIN SPECIAL COUNSEL TO DEFEND THE TOWN IN THE  
BJ's WHOLESALE CLUB, INC. ASSESSMENT PROCEEDING**

**WHEREAS**, a Notice of Petition was filed in the Genesee County Clerk's Office on July 15, 2016, and served upon the Town of Batavia on July 15, 2016, for the tax assessment case entitled BJ's Wholesale Club, Inc. vs. The Board of Assessors and/or the Assessor of the Town of Batavia, and the Board of Assessment Review, Index No. 65159, and

**WHEREAS**, the Town Attorney, Kevin D. Earl, has recommended in a letter, dated July 25, 2016, a copy of which is annexed hereto, that the Town Board retain the Law Firm of Bennett DiFilippo & Kurtzhalts, LLP.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, that Joel R. Kurtzhalts, Esq. of the Law Firm Bennett, DiFillippo & Kurtzhalts, LLP, be retained as special counsel to defend the Town in the above-named tax assessment litigation, upon the terms and rates as set forth in his letter to the Town Attorney, dated July 22, 2016, a copy of which is annexed hereto, and

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

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**Second by:** Councilwoman Michalak  
**Ayes:** White, Michalak, Underhill, Post  
**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 146:**

Deputy Supervisor Underhill offered the following:

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

**WHEREAS**, a Notice of Petition was filed in the Genesee County Clerk's Office on July 21, 2016, and served upon the Town of Batavia on July 21, 2016, for the tax assessment case entitled SCP Distributors LLC vs. The Board of Assessors and/or the Assessor of the Town of Batavia, and the Board of Assessment Review, Index No. 65173, and

**WHEREAS**, the Town Attorney, Kevin D. Earl, has recommended in a letter, dated July 28, 2016, a copy of which is annexed hereto, that the Town Board retain the Law Firm of Bennett DiFilippo & Kurtzhalts, LLP.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, that Joel R. Kurtzhalts, Esq. of the Law Firm Bennett, DiFillippo & Kurtzhalts, LLP, be retained as special counsel to defend the Town in the above-named tax assessment litigation, upon the terms and rates as set forth in his letter to the Town Attorney, dated July 28, 2016, a copy of which is annexed hereto, and

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

**Second by:** Councilwoman White  
**Ayes:** Underhill, White, Michalak, Post  
**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 147:**

Supervisor Post offered the following:

**KIWANIS PARK DONATION**

**RESOLVED**, the Batavia Town Board hereby accepts the following donations for use of the Kiwanis Park:

\$25.00 from Chad and Jennifer Zambito for park use on July 29, 2016

**Second by:** Deputy Supervisor Underhill  
**Ayes:** Post, Underhill, Michalak, White  
**APPROVED by unanimous vote** (4-0)

**RESOLUTION NO. 148:**

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Councilwoman Michalak offered the following:

**RESOLUTION INCREASING BUDGETARY LINE ITEMS FOR  
CONSOLIDATED LOCAL STREET AND  
HIGHWAY IMPROVEMENT PROGRAM (CHIPS)  
HIGHWAY**

**WHEREAS**, the Highway Superintendent received notification from the New York State Department of Transportation that the State fiscal year 2016-2017 Consolidated Local Street and Highway Improvement Program (CHIPS) funding balance for the Town of Batavia is \$103,621.70; and

**WHEREAS**, \$83,200.00 of the \$103,621.70 is in the 2016 Budget; and

**WHEREAS**, the difference of \$20,421.70 needs to be accounted for.

**NOW, THEREFOE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes increasing expenditure line item DA5112.200 in the amount for \$20,421.70. Source of funding is from the State Aid CHIPS-DA3501.

**Second by:** Deputy Supervisor Underhill

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

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

**RESOLUTION NO. 149:**

Councilwoman White offered the following:

**RESOLUTION ADDING AND INCREASING BUDGETARY LINE ITEMS  
FOR PAVE NY PROGRAM  
HIGHWAY**

**WHEREAS**, the Highway Superintendent received notification from the New York State Department of Transportation that the enacted State fiscal year (SFY ) 2016-2017 budget provides State assistance provided pursuant to the PAVE NY Program; and

**WHEREAS**, the Town of Batavia PAVE NY apportionment for SFY 2016-2017 is \$23,652.68; and

**WHEREAS**, to account for these funds a revenue line item needs to be established and the budgetary lines items need to be increased.

**NOW, THEREFOE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes adding and increasing revenue line item DA3503-NY PAVE and increasing expenditure line item DA5112.200 in the amount for

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\$23,652.68.

**Second by:** Deputy Supervisor Underhill  
**Ayes:** White, Underhill, Michalak, Post  
**APPROVED by unanimous vote (4-0)**

**RESOLUTION NO. 150:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION AUTHORIZING APPLICATION FOR FUNDS FROM THE  
2016-2017 JUSTICE COURT ASSISTANCE PROGRAM**

**WHEREAS**, the New York Office of Court Administration is accepting applications and accompanying paperwork for the 2016-2017 Justice Court Assistance Program (JCAP) Grant until October 13, 2016; and

**WHEREAS**, the Court would like to prepare and submit an application the NYS Office of Court Administration; and

**WHEREAS**, a Town Board resolution is required to submit an application for the JCAP grant.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes Town Justices Michael Cleveland and/or Thomas Williams to file an application for funding from the New York State Office of Court Administration 2016-2017 Justice Court Assistance Program for equipment and/or office supplies for the court; and be it further

**RESOLVED**, the Supervisor is hereby authorized to execute any documents necessary to file the application with NYS Office of Court Administration.

**Second by:** Councilwoman Michalak  
**Ayes:** Underhill, Michalak, White, Post  
**APPROVED by unanimous vote (4-0)**

**RESOLUTION NO. 151**

Supervisor Post offered the following:

**TRAINING WORKSHOP**

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

Berneda Scoins- Government Appointed Historians of WNY 2016 Fall Meeting September 24, 2016 at a cost of \$30.00.

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**Second by:** Councilwoman Michalak  
**Ayes:** Post, Michalak, White, Underhill  
**APPROVED by unanimous vote (4-0)**

**RESOLUTION NO. 152:**

Councilwoman Michalak offered the following:

**DEDICATION OF BATAVIA DOWNS SEWER MAINS**

**WHEREAS**, Western Regional Off Track Betting Corporation (hereinafter “OTB”) would like the Town of Batavia, (hereinafter “Town”) to maintain the existing sewer mains which are located on the east side of their building and generally described as follows:

- Approximately 820 ft. of 12” diameter sewer main including laterals and manholes at a total approximate value of \$70,000

**WHEREAS**, OTB has agreed to pay all expenses for the maintenance of the sanitary sewer main and entered into an agreement and provided an easement to the Town for their maintenance, and

**WHEREAS**, OTB has requested the Town of Batavia accept dedication of said sewer mains;  
and

**WHEREAS**, the Town Engineer has made a recommendation to the Town Board for acceptance of the sewer mains.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, accepts dedication of said sewer mains on the east side of Western Regional Off Track Betting Corporation.

**Second by:** Councilwoman White  
**Ayes:** Michalak, White, Underhill, Post  
**APPROVED by unanimous vote (4-0)**

**RESOLUTION NO. 153:**

Councilwoman White offered the following:

**SECOND AMENDED  
PROFESSIONAL SERVICES AGREEMENT  
WITH CONSERVATION CONNECTS  
FOR THE  
GREEN GENESEE/SMART GENESEE PROJECT  
TO INCLUDE ADDITIONAL SCOPE OF WORK  
TO THE  
TOWN OF BATAVIA COMPREHENSIVE MASTER PLAN**

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**WHEREAS**, the Town of Batavia has contracted with Conservation Connects to complete the Green Genesee/ Smart Genesee project, and

**WHEREAS**, the Green Genesee/ Smart Genesee project included Comprehensive Plan updates as they relate to natural resources and green infrastructure, and

**WHEREAS**, the Town of Batavia previously added additional services to the Green Genesee/ Smart Genesee project to complete the Town's full Comprehensive Master Plan update, and

**WHEREAS**, Conservation Connects has submitted a proposal (attached) in the amount of Seventeen thousand nine hundred eighty-four dollars (\$17,984.00) to add the following tasks to the Comprehensive Plan Update as requested by the Town:

1. Additional staff and planning committee meetings
2. More detailed buildout projection analysis
3. Project fiscal impacts of Alternative future developments
4. Conceptual renderings to illustrate Sub-urban and neighborhood District regulations including review meetings, GIS and base mapping

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, does hereby authorize the Supervisor to amend the contract with Conservation Connects for additional services for the Comprehensive Plan Update as described above and in the attached proposal in the amount of \$17,984, and

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

**Second by:** Deputy Supervisor Underhill

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

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

**Abstract No. 8-2016:** Motion Deputy Supervisor Underhill, second Councilwoman Michalak to authorize the Supervisor to pay the following vouchers:

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General	\$56,342.99
Highway	34,748.22
Sewer No. 1	33,563.20
Sewer No. 2	54,460.11
Water	37,807.72
Townline Water District	34,428.00
Ellicott Trail	1,107.78
Pratt	9,600.00
West Main Sewer	21,000.00
<b>Total</b>	<b>\$283,058.02</b>

Check numbers 17098 – 17142, 17144 –17157, SM: 1087, Online: \$8,573.53

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

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

**No Department Reports**

**No Supervisor’s Report**

**No Communications**

**No Committee Reports**

**ADJOURNMENT:**

Motion Deputy Supervisor Underhill, second Councilwoman Michalak to adjourn the Regular Town Board Meeting at 7:10 P.M.

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

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

Respectfully submitted,

Sandra M. Baubie  
Deputy Town Clerk