

**NOVEMBER 16, 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
Councilman Zambito

Others

Present: Town Clerk Morasco
Mike Pettinella, The Batavian Reporter
Mallory Drefenbach, Daily News Reporter

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

October 19, 2016 Public Hearing-Local Law 3 Tax Cap Override: Motion Deputy Supervisor Underhill, second Councilman Zambito to approve the minutes as written.

Ayes: Underhill, Zambito, White, Michalak, Post

MOTION CARRIED by unanimous vote (5-0)

October 19, 2016 Regular Town Board Meeting: Motion Councilman Zambito, second Councilwoman Michalak to approve the minutes as written.

Ayes: Zambito, Michalak, Underhill, White, Post

MOTION CARRIED by unanimous vote (5-0)

November 9, 2016 Public Hearing-Sewer Rates, November 9, 2016 Public Hearing-Water Rates, November 9, 2016 Public Hearing-2017 Town Budget, and November 9, 2016 Special Town Board Meeting: Motion Councilwoman Michalak, second Deputy Supervisor Underhill to approve the minutes as written.

Ayes: Michalak, Underhill, Zambito, White, Post

MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 183:

Councilwoman White offered the following:

TOWN OF BATAVIA SEWER RATES – 2017

WHEREAS, pursuant to General Municipal Law Section 452 as amended, impositions of sewer rates 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 rates are imposed to pay for the cost of wastewater treatment and operation and maintenance of the sewer lines;

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WHEREAS, in Sewer District No. 1 the sewer rates for 2017 has been set at six dollars and thirteen cents (\$6.13) per 1000 gallons;

WHEREAS, in Sewer District No. 2 the sewer rates for 2017 has been set at six dollars and thirteen cents (\$6.13) per 1000 gallons;

WHEREAS, as required by law and in conjunction with the public hearing held November 9, 2016 for the 2017 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 rates in Sewer Districts No. 1 and No. 2 for one (1) year beginning January 1, 2017.

RESOLVED, the sewer rates are to be paid quarterly in the months of May, August and November, 2017 and February, 2018.

Second by: Councilman Zambito

Ayes: White, Zambito, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 184:

Deputy Supervisor Underhill offered the following:

TOWN OF BATAVIA WATER RATES – 2017

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 9, 2016 for the establishment of the 2017 water rates; and

WHEREAS, the base water rate for May 2017 to February 2018 is set at \$5.10/1,000.

WHEREAS, the agricultural water rate for May 2017 to February 2018 is \$3.73/1,000 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

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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, 2017, 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, 2017 and February, 2018.

Second by: Councilman Zambito

Ayes: Underhill, Zambito, White, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 185:

Supervisor Post offered the following:

ADOPTION OF 2017 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 2017 Preliminary Budget was adopted on October 19, 2016 and after which a Public Hearing was held on November 9, 2016 for all interested parties to be heard; and

WHEREAS, on November 10, 2016 the 2017 Preliminary Budget was revised to account for the reserved funds and the West Main and Townline Debt Services.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby adopts the November 10, 2016 Revised Preliminary Town Budget as the 2017 Annual Budget of the Town of Batavia.

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

RESOLUTION NO. 186:

Councilwoman Michalak offered the following:

TRAINING WORKSHOP

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

Hiedi Librock and Marcy Crandall- GFOA Western Region Holiday Seminar December 1, 2016. The cost of the training is \$55.00 each and a Town vehicle will be used.

Teressa Morasco- NYSTCA Regional Meeting and Training December 5, 2016 at a cost of \$35.00.

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

RESOLUTION NO. 187:

Councilman Zambito 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 21, 2016 at the Batavia Town Hall at 7:00 o'clock p.m.

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

**NOTICE FOR PUBLIC HEARING ON
FIRE PROTECTION CONTRACT FOR 2017**

Public Notice is hereby given, that a Public Hearing will be held Wednesday,

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December 21, 2016 by the Town Board of the Town of Batavia, Genesee County, New York, at the Batavia Town Hall located at 3833 West Main Street Road beginning at 7:00 P.M. of that day and for the purpose of considering contracting with the Town of Batavia Fire Department, Inc. for fire protection services to be furnished by the Town of Batavia Fire Department, Inc to the Fire Department District established in the Town of Batavia and known as the "Town of Batavia Fire Protection District" upon the following general terms, to wit:

1. The Town of Batavia Fire Department, Inc. shall answer and attend upon all calls in said District;
2. The Town of Batavia Fire Department Inc., shall purchase and maintain such property, crime, dishonesty bond and liability insurance as it deems prudent to protect its interests. Such insurance shall include Automobile Liability, General Liability naming the Town of Batavia, its agents and employees as Additional Insureds, Contractual Liability for this Contract and should include Ambulance Attendants Professional Liability, Volunteer Fire Department Errors and Omissions Liability and Liquor Law Liability coverages. Liability limits of at least \$1,000,000.00 each occurrence, claim or incident are recommended but not required. A Certificate of all liability insurances, providing the Town with at least 30 days written notice of cancellation or nonrenewable, shall be furnished to the Town Attorney, Town Hall, 3833 West Main Street Road, Batavia, New York, 14020.
The Town of Batavia Fire Department, Inc. shall also indemnify and hold harmless the Town of Batavia, its agents and employees from all claims, suits, loss, damages, injuries, liability, cost and expenses arising from the services provided for in this contract and from the activities of the Fire District, its officers, employees and volunteers to the extent this provision is insured by the Town of Batavia Fire District.
3. The Town of Batavia Fire Department, Inc. shall maintain public liability and property damage insurance policies for the benefit of said District and the Town of Batavia, and shall hold said District and Town harmless for losses not covered by insurance;
4. The Town of Batavia Fire Department, Inc. shall be responsible for loss or damage sustained in fire apparatus or other equipment while attending fires in said District;
5. The Town of Batavia and the Town of Batavia Fire Protection District shall pay or provide insurance coverage for authorized items;
6. The Town of Batavia Fire Department, Inc. shall participate in the Genesee County Mutual Aid Plan and reserves certain rights pertaining to said participation;
7. The Town of Batavia Fire Department, Inc. shall reimburse the Town of Batavia should its equipment not be usable;
8. For such services the Town of Batavia Fire Department shall receive the yearly sum of nine hundred sixteen thousand, eight hundred fifty-eight dollars (\$916,858.00).
9. The Town of Batavia shall plow and provide routine maintenance to the driveway and parking area of the Fire Department's Fire Hall;
10. The Town of Batavia Fire Department, Inc. shall provide financial data and records to the Town of Batavia.
11. The contract shall run for one (1) year from January 1, 2017 and shall expire on December 31, 2017

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All persons interested in the matter will be heard at such time and place specified above.

Dated: November 16, 2016

Teresa M. Morasco
Town Clerk
Town of Batavia

RESOLUTION NO. 188:

Councilwoman White 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 2017 (November 27, 2016 through November 27, 2017) has been quoted at sixty-three thousand, five hundred, ninety-seven dollars and eighty-six cents, which includes the Cyber Coverage (\$63,597.86) (attached).

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 of sixty-three thousand, five hundred, ninety-seven dollars and eighty-six cents (\$63,597.86), copies of which are annexed hereto and made a part of the minutes; and be it further

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

Second by: Councilman Zambito

Ayes: White, Zambito, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 189:

Deputy Supervisor Underhill 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 White

Ayes: Underhill, White, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

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RESOLUTION NO. 190:

Supervisor Post offered the following:

**AUTHORIZATION TO EXECUTE
AGREEMENT BETWEEN THE NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLES FOR HEARING ROOM AT TOWN HALL**

WHEREAS, the Town of Batavia and the New York State Department of Motor Vehicles have had an annual agreement since 2003 for the use of a room at the Town Hall for the purpose of Motor Vehicle Hearings; and

WHEREAS, the current agreement expires December 31, 2016; and

WHEREAS, the New York State Department of Motor Vehicles requested to enter into another one year agreement.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the Agreement between the New York State Department of Motor Vehicles and the Town of Batavia, 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)

AGREEMENT

This Agreement is made by and between the New York State Department of Motor Vehicles (“DMV”), located at 6 Empire Plaza, Swan Street Building, Albany, New York 12228, and the Town of Batavia (the “Town”), with offices located at 3833 West Main Street Road, Batavia, NY 14020. DMV and the Town shall collectively be referred to herein as the “Parties”.

The purpose of this Agreement is for the rental of the currently used Hearing Room in the Batavia Town Hall, located at 3833 West Main Street Road, Batavia, NY, for conducting DMV Safety and Business Hearings.

The Parties agree as follows:

1. **TERM & HOURS OF USE:** This Agreement shall take effect on January 1, 2017 and will remain in effect for a period of one (1) year, ending on December 31, 2017, with the option to amend or extend for additional one (1) year periods. DMV shall use the Hearing Room from no more than three days each month, between the hours of 10:00 A.M. and 3:00 P.M.

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2. FEE: DMV shall pay the Town the sum of One Thousand, Two Hundred Dollars (\$1,200.00) in advance for the use of said Hearing Room, said sum representing a rental fee of One Hundred Dollars (\$100.00) per month for a period of twelve (12) months. Payment shall be made upon DMV's receipt of the Town's invoice for payment and in accordance with Article XI-A of the NYS Finance Law. Should either party terminate this Agreement, the Town agrees to reimburse DMV One Hundred Dollars (\$100.00) for each full month remaining from the date of termination to the expiration date of this agreement.

3. CHANGE OF SCHEDULED USE OR LOCATION OF HEARING ROOM: The Town shall make such Hearing Room available to DMV as scheduled. However, the Parties agree to make reasonable effort to accommodate each other's scheduling needs concerning any change in the location or scheduled use of the Hearing Room.

- a. NOTICE OF CHANGE: In the event DMV requires a change of the dates the Hearing Room will be used, or the Town needs to change the Hearing Room another location, the party requesting the change must provide the other party with written notice of such changes no later than 45 days before the next scheduled use date.
- b. The Town agrees that any change in location shall be to similar accommodations located in the same building, where possible, or to a building located in the same town.

Such similar accommodations must (a) be within a reasonable distance from the current site, and (b) provide adequate parking, heating, air conditioning, lighting, rest room, and electrical facilities required for conducting DMV's Safety and Business Hearings.

- c. DMV's use of the Hearing Room less than three days per month in any month shall not constitute a waiver of DMV's right to use the room as scheduled in any subsequent month.

4. ACCESS TO HEARING ROOM: The Town shall provide access to the Hearing Room to all individuals required for the conduct of such hearings, including all parties and witnesses.

5. The Town shall provide janitorial and maintenance services to the premises; and DMV will make reasonable effort to keep the Hearing Room clean and orderly.

6. TERMINATION: Either party may terminate this Agreement upon sixty (60) days' written notice to the other party.

Notice of termination must be directed as follows:

TO DMV: Dale Schifter Solomon Senior Administrative Law Judge 30-56 Whitestone Expressway Flushing, NY 11354	TO TOWN: Gregory H. Post Town Supervisor Town of Batavia 3383 West Main Street Road
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	Batavia, NY 14020
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In Witness Whereof, the Parties hereto have executed this agreement by their duly authorized officer or representative.

Dated: _____

Town of Batavia By, _____ Gregory H. Post Town Supervisor	New York State Department of Motor Vehicles By, _____ Elizabeth Coalts Director, Procurement Services
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RESOLUTION NO. 191:

Councilwoman Michalak offered the following:

**CALLING FOR PUBLIC HEARING
COMPREHENSIVE MASTER PLAN**

WHEREAS, the Town of Batavia Comprehensive Plan Committee has performed a study and an update to the Town of Batavia Comprehensive Master Plan (CMP); and

WHEREAS, the draft of the Comprehensive Master Plan has been completed and filed in the Town Clerk's Office.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes and orders that a Public Hearing on the Proposed Comprehensive Master be conducted at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, at 7:05 P.M. on Wednesday, December 21, 2016, at which time and place all interested persons will be heard; and be it further

RESOLVED, that the Town Clerk is hereby authorized and directed to publish such public notice of the subject Public Hearing as required by law; and be it further

RESOLVED, the Batavia Town Board hereby authorizes and directs LaBella Associates, Consultants for the CMP update, to refer the draft Plan to the Genesee County Planning Board.

Second by: Councilman Zambito

Ayes: Michalak, Zambito, White, Underhill, Post

APPROVED by unanimous vote (5-0)

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**NOTICE OF PUBLIC HEARING
COMPREHENSIVE MASTER PLAN**

PUBLIC NOTICE IS HEREBY GIVEN that the draft copy of the comprehensive master plan is complete and has been filed in the Office of the Town Clerk of the Town of Batavia, where it is available for public inspection during regular business hours and via the Town of Batavia Website at www.townofbatavia.com.

Notice is also given that the Town Board of the Town of Batavia will hold a Public Hearing on Comprehensive Master Plan at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York at 7:05 P.M. on Wednesday, December 21, 2016 at which time and place any person will be heard.

By order of the Batavia Town Board.

Dated: November 16, 2016

Teresa M. Morasco
Batavia Town Clerk

RESOLUTION NO. 192:

Councilman Zambito offered the following:

**SITE ACCESS AGREEMENT
ELLICOTT TRAIL PROJECT
GRAHAM MANUFACTURING PROPERTY**

WHEREAS, the Town of Batavia received funding from the N.Y.S. Department of Transportation for the design of the Ellicott Trail Project through the City and Town of Batavia

WHEREAS, the Town of Batavia needs to access property owned by Graham Manufacturing Company, Incorporated located at 60 Evans Street in Batavia to conduct soil borings and topographic survey; and

WHEREAS, Graham Manufacturing Company, Incorporated prepared a site access agreement to allow the Town access to the property for the soil borings and topographic survey; and

WHEREAS, the Assistant Town Engineer reviewed and recommends approval of the site access agreement; and

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby approves and authorizes the Supervisor to execute the site access agreement with Graham Manufacturing Company, Incorporated for the Ellicott Trail Project, a copy of which is annexed here to and made a part of the minutes.

Second by: Councilwoman Michalak

Ayes: Zambito, Michalak, White, Underhill, Post

APPROVED by unanimous vote (5-0)

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Abstract No. 11-2016: Motion Deputy Supervisor Underhill, second Councilwoman Michalak to authorize the Supervisor to pay the following vouchers:

General	\$61,882.86
Highway	83,376.75
Sewer No. 1	1,345.37
Sewer No. 2	1,579.45
Water	14,967.03
Ellicott Trail	1,856.08
Townline Water	21,565.00
Total	\$186,572.54

Check numbers 17308 – 17362, 17364 – 17378, SM: 1092 -1093, ACH: \$4,347.01, Online: \$5,467.44

Ayes: Underhill, Michalak, Zambito, White, Post

MOTION CARRIED by unanimous vote (5-0)

DEPARTMENT REPORTS:

The Supervisor reported on the following departments:

Building Inspector – The Supervisor read the attached Building Inspector’s report.

Highway- The Highway Department is busy gearing up for winter.

Water/Wastewater- The Water/Wastewater Department continues with ongoing maintenance, inspections and new services and water quality flushing and sampling.

Supervisor’s Report:

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

GAM- There is a GAM meeting tomorrow evening at 7:00 P.M. hosted by the Town of Alexander at the Alexander Town Hall.

Work Session- The November 23, 2016 work session has been cancelled.

Comprehensive Master Plan (CMP)- There will be a CMP informational meeting on Wednesday, December 7, 2016 at 7:00 P.M. at the Batavia Town Hall.

COMMUNICATIONS:

The Town Clerk reported on the following:

October Town Clerk monthly report collected a total of \$3,823.36, remitted \$1,832.09 to the Supervisor for the Local Share.

Town Clerk’s Office Closing- The Town Clerk’s office will be closed at 4:30 P.M. Wednesday, November 23, 2016 rather than at 7:00 P.M.

Enjoy your family and have a Happy Thanksgiving!

COMMITTEE REPORTS:

Ellicott Trail- Councilwoman Michalak reported that there is an Ellicott Trail meeting tomorrow.

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ADJOURNMENT:

Motion Deputy Supervisor Underhill second Councilwoman Michalak to adjourn the Regular Town Board Meeting at 7:28 P.M.

Ayes: Underhill, Michalak, Zambito, White, Post

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk