

**DECEMBER 21, 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, Batavian Reporter
Jim Krencik, Daily News Reporter

The Supervisor called the meeting to order at 7:07 P.M.

The Town Board reviewed the SEQR for Comprehensive Master Plan Update.

The Supervisor called the Public Hearing to Order for the Town of Batavia Fire Contract at 7:12 P.M. - Minutes for public hearing entered separately.

The Supervisor called the Public Hearing to Order for the Comprehensive Master Plan Update at 7:14 P.M.- Minutes for public hearing entered separately.

November 16, 2016 Regular Town Board Meeting: Motion Deputy Supervisor Underhill, second Councilwoman Michalak to approve the minutes as written.

Ayes: Underhill, Michalak, Zambito, White, Post

MOTION CARRIED by unanimous vote (5-0)

Supervisor Post welcomed Andrea Bennion and Kennedy Lampart, Batavia High School Students to the meeting.

RESOLUTION NO. 193:

Councilwoman White offered the following:

**AUTHORIZING AGREEMENT FOR
FIRE PROTECTION SERVICES FOR FISCAL YEAR 2017**

WHEREAS, there has been duly established in the 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 as was duly adopted by the Town Board of the Town of Batavia, Genesee County, New York, on March 24, 1948;

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WHEREAS, it is proposed that a Contract be entered into with the Town of Batavia Fire Department, Inc. for the furnishing of fire protection in said District by said Town of Batavia Fire Department, Inc.; and

WHEREAS, due notice has been given of a Public Hearing held at the Town Hall of the Town of Batavia, New York on the 21st day of December, 2016, at 7:00 P.M. to consider such Contract, the notice thereof duly specifying the time and place of the Public Hearing as aforesaid and describing the time and place of the Public Hearing as aforesaid and describing in general terms and proposed Contract; and

WHEREAS, said Public Hearing was duly conducted as advertised and all persons interested therein and presenting themselves were heard; now, therefore, be it

RESOLVED, it is in the public interest for this Board to contract with the Town of Batavia Fire Department, Inc., and be it further

RESOLVED, upon receiving certified copies of resolutions duly adopted by said Town of Batavia Fire Department, Inc., membership and Directors approving the terms and conditions of said Contract that this Town Board shall contract with said Town of Batavia Fire Department, Inc. for the furnishing of fire protection to such District according to the terms of said Contract, a copy of which is annexed to this Resolution and is make a part thereof, and be it further

RESOLVED, such contract shall be executed on behalf of the Town of Batavia, New York by its Supervisor and Town Clerk.

Second by: Councilman Zambito

Ayes: White, Zambito, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

The Supervisor thanked the Fire Department for the service to the community.

TOWN OF BATAVIA FIRE DEPARTMENT AGREEMENT

THIS AGREEMENT made this ____ day of _____, 2016, 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

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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.

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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 nine hundred sixteen thousand, eight hundred fifty-eight dollars (\$916,858.00).

B. The sums as stated in section A of this paragraph to be due and payable on the 1st day of February, 2017, 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,

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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, 2017**, 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, 2017, and shall continue for a term of one (1) year which will expire at midnight on December 31, 2017.

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

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(SEAL)

ATTEST:

TERESSA M. MORASCO, TOWN CLERK

TOWN OF BATAVIA FIRE DEPARTMENT, INC.

BY _____
MICHAEL JONES, PRESIDENT

(SEAL)

**STATE OF NEW YORK)
COUNTY OF GENESEE) ss:**

On the ____ day of _____, 2016, 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 Springs 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 _____, 2016, before me came Michael Jones, to me known, who,

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being by me duly sworn, did depose and say that, he resides at 17 Lincoln Avenue, 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. 194:

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO ACCEPT THE ENVIRONMENTAL ASSESSMENT FORM AND ISSUE A
NEGATIVE DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE FOR
COMPREHENSIVE MASTER PLAN UPDATE AND ZONING REVISIONS TO IMPLEMENT
GREEN GENESEE/ SMART GENESEE**

WHEREAS:

The Batavia Town Board (hereinafter referred to as Town Board) has determined that the action to adopt the Town of Batavia Comprehensive Plan Update and zoning revisions is a Type 1 Action and that coordinated review is not required as the Town Board is the only entity with the authority to adopt the Comprehensive Plan and zoning revisions.

1. The Town Board has reviewed the Environmental Assessment Form Parts 1, 2 and 3 that were prepared for the adoption of the Town of Batavia Comprehensive Plan Update and zoning revisions.
2. The Town Board has considered the Environmental Assessment Form prepared for this action, comments received from the public, and the proposed Negative Determination of Environmental Significance.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Town Board has determined that the information in Part 1 of the EAF is accurate and complete and authorizes the Town Supervisor to sign and date the form.
2. The Town Board declares that the action to adopt the Town of Batavia Comprehensive Plan Update and zoning revisions will not have a significant adverse effect on the environment.
3. The Town Board further declares that the reasons supporting this negative declaration include:
 - a. Compared with the criteria listed in Section 617.11 of SEQR regulations, all indications are that the proposed action will not cause substantial adverse change in community character, aesthetics, design and natural features; and,

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- b. Review of the proposed Comprehensive Plan and the Environmental Assessment Form has indicated that the action to adopt the Comprehensive Plan will not have a significant adverse impact on the environment of the Town of Batavia.
- 4. The Supervisor is directed to sign the Environmental Assessment Form Part 3 (Negative Determination of Environmental Significance).
- 5. The Town Clerk is directed to file copies of the Negative Determination of Environmental Significance and Attachment thereto with the Town of Batavia and to notify the Environmental Notice Bulletin.

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

RESOLUTION NO. 195:

Supervisor Post offered the following:

TRAINING WORKSHOP

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

Jon Long, Don Partridge, Jeremy Liles, Paul McCullough, Brittany Witkop, Kathy Jasinski, Gordon Offhaus, and Paul Marchese- Comprehensive Master Plan and Green Genesee training session (was) November 29, 2016.

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

RESOLUTION NO. 196:

Councilwoman Michalak offered the following:

**CODE ENFORCEMENT OFFICER AGREEMENT BETWEEN
THE TOWN OF BATAVIA AND THE TOWN OF PAVILION**

WHEREAS, the Town of Batavia and the Town of Pavilion entered into a Code Enforcement Officer Agreement in 2013; and

WHEREAS, both Towns desire to continue this relationship, allowing Batavia to provide Code Enforcement Services, and

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WHEREAS, the agreement addresses the need for the Town of Pavilion to have its Codes enforced by the Town of Batavia Code Officials.

NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Batavia, New York, that a proposed "Third Amended Town of Batavia and the Town of Pavilion Code Enforcement Services Agreement", a copy of which shall be annexed hereto and made part of the Town Board Minutes, is hereby approved; and be it

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

Second by: Councilman Zambito

Ayes: Michalak, Zambito, Whtie, Underhill, Post

APPROVED by unanimous vote (5-0)

THIRD AMENDED
TOWN OF BATAVIA AND PAVILION
CODE ENFORCEMENT
AGREEMENT

THIS AGREEMENT, made this _____ day of _____, _____ by and between the **Town of Pavilion**, a municipal corporation with offices at 1 Woodrow Drive, Pavilion, NY 14525 ("Pavilion"), and the **Town of Batavia**, a municipal corporation with office at 3833 West Main Road, Batavia, NY 14020 ("Batavia"),

WHEREAS, pursuant to article 5-G of the General Municipal Law, Pavilion and Batavia are authorized to enter into an inter-municipal cooperative agreement for the provision of Code Enforcement services, and

WHEREAS, Batavia employs fully qualified Code Enforcement Officers to enforce Zoning Code, Fire and Building Codes and other various codes and regulations, and

WHEREAS, Pavilion has identified a need to have its Codes enforced by Batavia, and

WHEREAS, Batavia intends to continue to maintain the position of Code Enforcement Officer and to provide Code Enforcement Duties in both the Town of Batavia and the Town of Pavilion.

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

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First: That Pavilion shall appoint the Code Enforcement Officers of the Town of Batavia as its Code Enforcement Officers.

Second: In consideration for compensation for the services set forth herein, Pavilion shall pay Batavia fifteen thousand dollars (\$15,000.00) per year of this agreement. The sum shall be paid during the 2017 budget year to provide services for the year of 2017.

Third: The services that will be provided will be to administer the adopted NYS Building Codes, Town of Pavilion Zoning Code and Town of Pavilion Land Separation Law.

Fourth: Services provided will be on call and available during business hours of Monday thru Friday work week from 9am- 3pm.

Fifth: The Code Officer shall for all purposes be deemed an employee of Batavia. The Code Officer shall not in any way be construed as an employee of Pavilion. Batavia shall pay the Code Officers salary and make employer's contributions for retirement, social security, health insurance, worker's compensation, unemployment and other similar benefit.

Sixth: This agreement does not include attorney services and Pavilion shall provide and pay for all attorney services and expenses in its jurisdiction.

Seventh: This agreement shall become effective on January 1st 2017 and expire on December 31st 2017 with an option for either municipality to terminate this agreement upon a ninety (90) day written notice to the other municipality.

Eighth: There are no other agreements or understandings, either oral or written, between the parties affecting this agreement. No changes, additions or deletions of any portions of this agreement shall be valid or binding upon the parties hereto unless the same is approved in writing by the parties.

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 PAVILION

TOWN OF BATAVIA

Theron Howard, 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 **Theron Howard**, 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

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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. 197:

Councilman Zambito offered the following:

**RESOLUTION TO APPROVE A SECOND AMENDED
FINANCIAL CLERICAL SERVICES AGREEMENT
WITH THE TOWN OF STAFFORD**

WHEREAS, the Town of Batavia, (hereinafter “Batavia”) and the Town of Stafford, (hereinafter “Stafford”) entered into a contract entitled “Towns of Batavia and Stafford First Amended Financial Clerical Services Agreement”, dated May 9, 2016; and

WHEREAS, Stafford wishes to continue this service with Batavia; and

WHEREAS, the Town of Batavia has determined that it has the ability to continue to provide the services by using the Batavia Town Financial Clerk and Secretary to the Supervisor, without reducing the level of service provided to the Town of Batavia.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that the proposed “Town of Batavia and Town of Stafford Second Amended Financial Clerical Services Agreement”, 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.

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

**SECOND AMENDED
TOWN OF BATAVIA AND TOWN OF STAFFORD
FINANCIAL CLERICAL SERVICES AGREEMENT**

THIS AGREEMENT, made the _____ day of _____, 20____, by and between the **TOWN OF STAFFORD**, a municipal corporation organized and existing under the Laws of the State of New York, having its principal office located at 8903 Route 237, Stafford, New York 14143, (hereinafter referred to as “Stafford”), and the **TOWN OF BATAVIA**, a municipal corporation organized and existing under the Laws of the State of New York, having its principal office located at 3833 West Main Street Road, Batavia, New York 14020, (hereinafter referred to as “Batavia”).

WHEREAS, pursuant to Article 5-G of the General Municipal Law, Stafford and Batavia are authorized to enter into an intermunicipal cooperative agreement for the provision of financial clerical services, and

WHEREAS, Batavia currently is employing a Financial Clerk fully qualified to provide the financial services as required by law, and

WHEREAS, Stafford has identified a need to have financial clerical work to be provided by Batavia, and

WHEREAS, Batavia intends to continue to maintain the position of Financial Clerk and to provide financial clerical duties in both the Towns of Batavia and Stafford.

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

1. Batavia agrees to provide financial clerical services to Stafford.
2. The services that will be provided will be to complete financial work as needed.
3. In consideration for compensation for the services set forth herein, Stafford shall pay Batavia sixteen thousand dollars (\$16,000) per year of this agreement. The sum shall be paid during the 2017 budget year to provide services for the year of 2017.
4. The Financial Clerk shall for all purposes be deemed an employee of Batavia. The Financial Clerk shall not in any way be construed as an employee of Stafford. Batavia shall pay the Financial Clerk’s salary and make employer’s contributions for retirement, social security, health insurance, worker’s compensation, unemployment and other similar benefits.

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5. 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 Financial Clerk when working in its Town and the other shall not be so responsible.

6. This Agreement shall become effective January 1, 2017 and shall expire on December 31st, 2017, with an option for either municipality to terminate this agreement upon a ninety (90) day written notice to the other municipality.

7. There are no other agreements or understandings, either oral or written, between the parties affecting this Agreement. No changes, additions, or deletions of any portions of this Agreement shall be valid or binding upon the parties hereto unless the same is approved in writing by the parties.

8. IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

TOWN OF STAFFORD

TOWN OF BATAVIA

Robert S. Clement, Supervisor

Gregory H. Post, Supervisor

State of New York }
County of Genesee }ss.

On this _____ day of _____, 20____, before me, the undersigned, personally appeared Robert S. Clement, 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/she executed the same in his/her capacity, and that by his/her 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 this _____ day of _____, 20____, before me, the undersigned, 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

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he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

RESOLUTION NO. 198:

Councilwoman White offered the following:

**CODE ENFORCEMENT OFFICER AGREEMENT BETWEEN
THE TOWN OF BATAVIA AND THE TOWN OF ALEXANDER**

WHEREAS, the Town of Batavia and the Town of Alexander wish to enter into a Code Enforcement Officer Agreement; and

WHEREAS, the agreement addresses the need for the Town of Alexander to have its Codes enforced by the Town of Batavia Code Official

NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Batavia, New York, that a proposed "Town of Batavia and the Town of Alexander Code Enforcement Services Agreement", a copy of which shall be annexed hereto and made part of the Town Board Minutes, is hereby approved; and be it

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

Second by: Deputy Supervisor Underhill

Ayes: White, Underhill, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

CODE ENFORCEMENT

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, _____ by and between the **Town of Alexander**, a municipal corporation with offices at 3350 Church Street, Alexander, New York 14005 ("Alexander"), and the **Town of Batavia**, a municipal corporation with office at 3833 West Main Road, Batavia, NY 14020 ("Batavia"),

WHEREAS, pursuant to article 5-G of the General Municipal Law, Alexander and Batavia are authorized to enter into an inter-municipal cooperative agreement for the provision of Code Enforcement services, and

WHEREAS, Batavia employs fully qualified Code Enforcement Officers to enforce Zoning

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Code, Fire and Building Codes and other various codes and regulations, and

WHEREAS, Alexander has identified a need to have its Codes enforced by Batavia, and

WHEREAS, Batavia intends to continue to maintain the position of Code Enforcement Officer and to provide Code Enforcement Duties in both the Town of Batavia and the Town of Alexander.

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

First: That Alexander shall appoint the Code Enforcement Officers of the Town of Batavia as its Code Enforcement Officers.

Second: In consideration for compensation for the services set forth herein, Alexander shall pay Batavia \$10,500.00 per year of this agreement. The sum shall be paid during the 2017 budget year to provide services for the year of 2017.

Third: The services that will be provided will be to administer the adopted NYS Building Codes, Town of Alexander Zoning Code.

Fourth: Services provided will be on call and available during business hours of Monday thru Friday work week from 9am- 3pm.

Fifth: The Code Officer shall for all purposes be deemed an employee of Batavia. The Code Officer shall not in any way be construed as an employee of Alexander. Batavia shall pay the Code Officers salary and make employer's contributions for retirement, social security, health insurance, worker's compensation, unemployment and other similar benefit.

Sixth: This agreement does not include attorney services and Alexander shall provide and pay for all attorney services and expenses in its jurisdiction.

Seventh: This agreement shall become effective on January 1st 2017 and expire on December 31st 2017 with an option for either municipality to terminate this agreement upon a ninety (90) day written notice to the other municipality.

Eighth: There are no other agreements or understandings, either oral or written, between the parties affecting this agreement. No changes, additions or deletions of any portions of this agreement shall be valid or binding upon the parties hereto unless the same is approved in writing by the parties.

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 ALEXANDER

TOWN OF BATAVIA

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Joseph Higley, 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 **Joseph Higley**, 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. 199:

Deputy Supervisor Underhill offered the following:

AUTHORIZING BUDGET TRANSFERS FOR 2016

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

General Fund:

From	Amount	To
A1320.401 Auditor – Projects	1015.00	A1381.401 Fiscal Advisors – Projects
A1355.402 Assessors – Attorney	150.00	A1355.400 Assessors – Contractual
A1440.400 Engineering – Contractual	923.00	A1440.120 Engineering – Pers Svc – OT
A1620.200 Buildings – Equipment	706.00	A1010.200 Town Board – Equipment

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A1010.402 Town Board – Contractual	470.00	A1220.400 Supervisor – Contractual
A5132.400 Garage – Utilities	350.00	A5132.201 Garage – Salt Hut
A5132.400 Garage – Utilities	409.00	A5132.401 Garage – Telephone
A5132.400 Garage – Utilities	2923.00	A5132.402 Garage – Other Operating Exp
A7110.401 Parks – Galloway Rd	400.00	A7110.400 Parks – Contractual
A8020.102 Planning Board Members	223.00	A8020.101 Planning Board Members
A8020.403 Planning Board Ordinances	6.00	A8020.404 Planning Board Codification
A8120.200 Swr Im Th Equipment	3000.00	A8120.400 Swr Im Contractual
A8120.102 Swr Im – Prs Svc	25.00	A8120.400 Swr Im Contractual
A8165.404 Superfund – Legal	2266.00	A8165.406 Superfund Post Maint
A1990.400 Contingency	13,665.00	A9060.800 Health Ins
A1990.400 Contingency	4863.00	A9060.801 Health ins Reimb
A1680.402 Central Data Proc – Network	749.00	A1680.200 Central data Proc equipment
A1410.400 Town Clerk Contractual	364.00	A1410.401 Sara Grant Contractual

Highway Fund:

From	Amount	To
DA5110.100 Gen Repair Pers Svc	1026.00	DA5110.101 Gen Repairs – Prs Svc PT
DA5110.103 Gen Repair –Pers Svc OT	2216.00	DA5110.101 Gen Repairs – Prs Svc PT
DA5110.103 Gen Repair –Pers Svc OT	7084.00	DA5110.400 Gen Repair – Contractual
DA5140.100 Brush Pers Svc	5847.00	DA5110.400 Gen Repair – Contractual
DA5140.400 Brush Contractual	1453.00	DA5110.400 Gen Repair – Contractual
DA5148.400 Svc Other Govt Contractual	953.00	DA5110.400 Gen Repair – Contractual

Sewer District #1 Fund:

From	Amount	To
SS1-8110.403 Swr Admin Consulting	1000.00	SS1-8110.100 Swr Admin Prs Svc
SS1-8120.102 San Swrs Part-time	100.00	SS1-8120.104 San Swr Prs Svc
SS1-8110.403 Swr Admin Consulting	1430.00	SS1-8120.400 San Swr Contractual

Sewer District #2 Fund:

From	Amount	To
SS2-8110.403 Swr Admin – Consulting	500.00	SS2-8110.100 Swr Admin – Pers Svc
SS2-8110.403 Swr Admin – Consulting	100.00	SS2-8120.104 San Swr Pers Svc
SS2-8110.403 Swr Admin – Consulting	552.00	SS2-8120120 San Swr OT
SS2-8110.403 Swr Admin – Consulting	2081.00	SS2-8120.400 San Swr Contractual
SS2-8110.400 Swr Admin Contractual	467.00	SS2-9060.801 Health Ins Reimb
SS2-9710.701 Saile Drive Int	13988.00	SS2-9710.601 Saile Drive Princ

Water District Fund:

From	Amount	To
SW8310.403 Wtr Admin Consulting	2000.00	SW8310.100 Wtr Admin Prs Svc
SW8310.403 Wtr Admin Consulting	500.00	SW8340.104 Trsm Dist Pers Svc
SW8310.403 Wtr Admin Consulting	2099.00	SW8340.120 Trsm Dist OT
SW8310.403 Wtr Admin Consulting	497.00	SW8340.200 Trs Dist Equipment
SW8340.404 Trs Dist Replacement	23643.00	SW8340.400 Trsm Dist Contractual
SW8310.403 Wtr Admin Consulting	15.00	SW9089.802 Uniforms

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

RESOLUTION NO. 200:

Supervisor Post offered the following:

**RESOLUTION INCREASING BUDGETARY LINE ITEMS
INSURANCE RECOVERY FUNDS**

RESOLVED, the Batavia Town Board hereby authorizes the following budget line item increases to account for insurance recovery funds – Incident November 18, 2016:

Revenue Line Item:		Expenditure Line Item:	
SW2680	\$ 201.76	SW8340.400	\$ 201.76
SS12680	\$ 33.62	SS18120.400	\$ 33.62
SS22680	\$ 33.62	SS28120.400	\$ 33.62

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

RESOLUTION NO. 201:

Councilwoman Michalak offered the following:

GENESEE COUNTY VISITORS GUIDE ADVERTISEMENT

RESOLVED, the Batavia Town Board hereby authorizes a full-page advertisement in the 2017 Genesee County Visitors Guide at a cost not to exceed \$1,800.00; and be it further

RESOLVED, Chad Zambito, Councilman will serve as the Community Page Coordinator.

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

RESOLUTION NO. 202:

Councilman Zambito offered the following:

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

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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

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, 2017.

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, 2017, a copy of which is annexed hereto and made part of the Town Board Minutes.

Second by: Deputy Supervisor

Ayes: Zambito, Underhill, Michalak, White, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 203:

Councilwoman White offered the following:

**RESOLUTION TO AUTHORIZE PURCHASE OF
LAPTOP COMPUTER**

RESOLVED, the Batavia Town Board hereby authorizes the purchase of one (1) Dell Latitude E5470 Laptop Computer for the Financial Clerk at a cost of \$705.47, New York State Contract #83AHG (quote attached); and be it further

RESOLVED, the expenditures will be appropriated from line item A1220.200.

Second by: Deputy Supervisor Underhill

Ayes: White, Underhill, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 204:

Deputy Supervisor Underhill offered the following:

**SERVER CABINET PURCHASE
HURRICANE TECHNOLOGIES, INCORPORATED**

WHEREAS, a server cabinet to be located at the Highway Facility is needed for the emergency site backups; and

WHEREAS, Hurricane Technologies, Incorporated provided a quote for a Tripp Lite 18U Rack Enclosure Server Cabinet and Rack Shelf at a cost of \$749.00 (quote attached).

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NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase of a Tripp Lite 18U Rack Enclosure Server Cabinet and Rack Shelf from Hurricane Technologies, Incorporated at a cost of \$749.00, and be it

FURTHER RESOLVED, the expenditure will be appropriated from line item A1680.200.

Second by: Councilman Zambito

Ayes: Underhill, Zambito, White, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 205:

Supervisor Post offered the following:

RABIES CLINIC- HIGHWAY FACILITY

WHEREAS, the Genesee County Health Department would like to hold a rabies clinic at the Town of Batavia Highway Facility on February 16, 2017 from 4:00 P.M. to 7:00 P.M.; and

WHEREAS, the Highway Superintendent has no objections to this.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Genesee County Health Department to hold a rabies clinic at the Town of Batavia Highway Facility on Thursday, February 16, 2017 from 4:00 P.M. to 7:00 P.M.; and be it

FURTHER RESOLVED, that Genesee County Health Department must provide the Town of Batavia a Certificate of Liability Insurance naming the Town as additional insured.

Second by: Councilwoman White

Ayes: Post, White, Underhill, Michalak, Zambito

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 206:

Councilwoman White offered the following:

AUTHORIZING APPOINTMENT OF ATTORNEY FOR THE TOWN

WHEREAS, Kevin Earl, Attorney for the Town has accepted a position as the Genesee County Attorney and will no longer be able serve as the Attorney for the Town of Batavia; and

WHEREAS, several qualified attorneys expressed an interest in being the Attorney for the Town and were interviewed by the Town Board; and

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WHEREAS, after much consideration the Town Board wishes to appoint Andrew Meier as Attorney for the Town of Batavia.

NOW, THEREFORE, BE IT

RESOLVED, that the Batavia Town Board hereby appoints Andrew Meier as Attorney for the Town of Batavia at a rate of one hundred ninety-five dollars (\$195.00) per hour for the one (1) year term beginning January 1, 2017 and ending December 31, 2017, and be it

FURTHER RESOLVED that all legal services must first receive approval from the Town Board, however, to avoid any delay in legal proceedings of the Town, the Supervisor is hereby authorized to approve during the interim of monthly meetings, legal fees not to exceed two thousand dollars (\$2,000.00). The law firm of Harris Beach LLC, counsel for the Town of Batavia Landfill Superfund site and Hodgson Russ Attorneys LLP, Counsel for Labor Negotiations are excluded from this resolution.

FURTHER RESOLVED, that all Town Board members have a legal right to confer with the Town Attorney at any time.

Second by: Councilman Zambito

Ayes: Michalak, Zambito, White, Underhill, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 207:

Councilman Zambito offered the following:

AUTHORIZING APPOINTMENT OF TOWN PROSECUTOR

WHEREAS, Kevin Earl, Prosecutor for the Town has accepted a position as the Genesee County Attorney and will no longer be able serve as the Prosecutor for the Town of Batavia; and

WHEREAS, several qualified attorneys expressed an interest in being the Prosecutor for the Town and were interviewed by the Town Board; and

WHEREAS, after much consideration, the Town Board wishes to appoint Theron Howard as the Prosecutor for the Town of Batavia.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby appoints Theron Howard as Prosecutor for the Town of Batavia at the cost of \$675.00 per week for a one (1) year term beginning January 1, 2017 and ending December 31, 2017. This will be an all-inclusive fee with no additional charges or deletions of any nature.

Second by: Councilwoman White

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

RESOLUTION NO. 208:

Councilwoman White offered the following:

**SEASONAL
ON CALL/AS NEEDED
MOTOR EQUIPMENT OPERATOR
HIGHWAY DEPARTMENT**

WHEREAS, the Highway Department is in need of a Motor Equipment Operator (MEO) employee on an on-call, as needed bases from December 22, 2016 to April 1, 2017; 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 John C. Riley for the Highway Department as seasonal MEO, on an on-call, as needed bases at a rate of \$20 dollars (\$20) per hour, not to exceed 40 hours per week with a start date on or after December 22, 2016; 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. Riley is subject to a physical, background and driver's license check and drug and alcohol testing.

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

SUSPEND THE RULES-Motion Deputy Supervisor Underhill, second Councilwoman Michalak to suspend the rules to introduce an additional resolution.

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

RESOLUTION NO. 209:

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO AUTHORIZE APPLICATION TO NATIONAL GRID
FOR THIRD PARTY OCCUPATION AGREEMENT**

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RESOLVED, that the Supervisor of the Town of Batavia, Genesee County, New York, is hereby authorized as the official representative of the Town to execute and submit an application to National Grid for a Third Party Occupation Agreement relating to the Ellicott Trail project; and be it further

RESOLVED, the Town Board hereby authorizes the application fee of \$500.00 to National Grid.

Second by: Councilwoman White

Ayes: Underhill, White, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

Abstract No. 12-2016: Motion Deputy Supervisor Underhill, second Councilman Zambito to authorize the Supervisor to pay the following vouchers:

General	\$279,649.72
Highway	44,093.85
Sewer No. 1	53,748.67
Sewer No. 2	112,093.36
Water	66,824.21
Saile Sewer	3,315.75
Pratt Rd Water	9,100.00
Sewer Cap Purch	8,744.00
Southwest Water	2,392.50
Ellicott Trail	6,469.19
West Main Sewer	22,275.00
Highway Equip	1,164.45
Townline water	36,310.92
Total	\$646,181.62

Check numbers 17379-174.15, 17417-17456, SM: 1094-1095 ACH: \$47,971.25, Online: \$5,745.58

Ayes: Underhill, White, Michalak, Zambito, Post

MOTION CARRIED by unanimous vote (5-0)

DEPARTMENT REPORTS:

The Supervisor reported on the following departments:

Highway- The Highway Department is all geared up for winter.

Water/Wastewater- The Water/Wastewater Department busy with service calls and fighting the elements with ongoing maintenance.

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

Supervisor’s Report:

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

Work Session- The November 28, 2016 work session has been cancelled.

Organizational Meeting and Special Meeting will be held Wednesday, January 4, 2017 at 7:00

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P.M.

COMMUNICATIONS:

The Town Clerk reported on the following:

November Town Clerk monthly report collected a total of \$3,441.19, remitted \$1,553.65 to the Supervisor for the Local Share.

Town Clerk's Office Closing- The Town Clerk's office will be closing at 4:30 P.M. Wednesday, December 28, 2016 rather than at 7:00 P.M.

Happy Healthy New Year!

ADJOURNMENT:

Motion Deputy Supervisor Underhill, second Councilwoman Michalak to adjourn the Regular Town Board Meeting at 8:27 P.M.

Ayes: Underhill, Michalak, White, Zambito, Post

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk