

APRIL 19, 2017
REGULAR TOWN BOARD MEETING

Town Hall

7:00 P.M.

Sharon White, Councilwoman led the pledge to the flag.

Roll Call

Present:

Deputy Supervisor Underhill
Councilwoman White
Councilwoman Michalak

Absent:

Supervisor Post
Councilman Zambito

Others

Present:

Town Clerk Morasco
Town Engineer Mountain
Building Inspector Lang
Sheila Hess, Conservation Connect
Barbara Johnson, Labella Associates
Jim Krencik, Daily News Reporter
Bruce Newton
Jayme Privitera and Family

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

Public Hearing Local Law 1 of 2017- The Deputy Supervisor called the Public Hearing to Order for Local Law 1 of 2017 to Establish Energy Benchmarking Requirements for Certain Municipal Buildings at 7:06 P.M. - Minutes for public hearing entered separately.

Public Hearing-Comprehensive Plan- The Deputy Supervisor called the Public Hearing to Order for the Comprehensive Plan at 7:10 P.M.- Minutes for public hearing entered separately.

Ellicott Trail Logo Proclamation – Councilwoman Michalak presented Jayme Privitera with a proclamation for designing the Ellicott Trail Logo. There were over 170 entries and Ms. Privitera’s logo design was chosen for the Ellicott Trail Logo, receiving first place in the competition.

March 15, 2017 Regular Town Board Meeting and March 29, 2017 Special Town Board Meeting:

Motion Councilwoman Michalak, second Councilwoman White to approve the minutes as written.

Ayes: Michalak, White, Underhill

MOTION CARRIED by unanimous vote (3-0)

SEQR Review - The Town Board reviewed the SEQR for Kings Plaza Pump Station Improvements.

RESOLUTION NO. 70:

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Councilwoman White offered the following:

RESOLUTION ADOPTING LOCAL LAW No. 1 of 2017

WHEREAS, proposed Local Law No. 1 of 2017 of the Town of Batavia entitled "A Local Law to Establish Energy Benchmarking Requirements for Certain Municipal Buildings", which proposed Local Law in its final form was presented to the Town Board at the meeting held on March 15, 2017, and a copy thereof was kept with the Town Clerk and copies both laid upon the desks of the members of said Town Board Members and mailed to each member of the Town Board Members not in attendance at said meeting; and

WHEREAS, a public hearing on the advisability of enacting said proposed Local Law was held on April 19, 2017, before this Town Board, pursuant to public notice duly published in The Daily News according to law, at which time all interested persons were heard; and

WHEREAS, the Town Board of the Town of Batavia, New York is of the opinion that adoption of said proposed Local Law No. 1 of 2017 is in the best interest of the Town of Batavia, New York,

NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Batavia, New York that said proposed Local Law No. 1 of 2017 be and the same hereby is adopted; and be it further

RESOLVED, that a certified copy of said Local Law No. 1 of 2017 be filed with the New York State Secretary of State in accordance with Law.

Second by: Councilwoman Michalak

Ayes: White, Michalak, Underhill

APPROVED by unanimous vote (3-0)

RESOLUTION NO. 71:

Deputy Supervisor Underhill offered the following:

RESOLUTION TO ADOPT THE
2017 TOWN OF BATAVIA COMPREHENSIVE PLAN

WHEREAS,

1. The Batavia Town Board has, after careful study, considered the proposed document entitled Town of Batavia Comprehensive Plan Update dated November 2016 that was prepared as part of the Green Genesee/ Smart Genesee process; and
2. The Batavia Town Board has completed the Environmental Review Record on the adoption and maintenance of said document and issued a "Negative Declaration" of

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significance on December 21, 2016, pursuant to the State Environmental Quality Review (SEQR) regulations; and

3. The Batavia Town Board considered comments made by the public and interested agencies at the Town Board Public Hearing held on December 21, 2016; and
4. After consideration from the public and interested parties the Batavia Comprehensive Plan Committee made some revisions to the Comprehensive Plan; and
5. The Batavia Town Board has studied the revised proposed document entitled Town of Batavia Comprehensive Plan (“Comprehensive Plan”) dated March 2017; and
6. A Public Hearing on the advisability of enacting said adoption was held April 19, 2017 before this Town Board pursuant to public notice duly published in The Daily News according to law at which time all interested persons were heard; and
7. The Genesee County Planning Board reviewed the draft Comprehensive Plan at its meeting on April 13, 2017 and recommended approval of the Comprehensive Plan as it should pose no significant county-wide impact. The plan is in harmony with the proposed update to the County Smart Growth Plan and the County Comprehensive Plan.
8. To fully address the public service portion, the Comprehensive Plan committee revised Section 8 “Transportation, Utilities and Public Services” dated April 2017.
9. The Batavia Town Board acknowledges that the adoption of said Comprehensive Plan is the beginning of a ten to fifteen year planning program for guiding conservation and development in the Town of Batavia, New York and, as such, will require periodic maintenance to keep the document viable; and
10. The Batavia Town Board has carefully considered the impacts associated with the Plan adoption, and, upon due consideration of the applicable county agricultural and farmland protection plans created under Article 25 of the New York Agriculture and Markets Law, finds that said Plan constitutes a suitable, logical and timely strategy for the conservation of natural resources and the future development of the Town of Batavia; and
11. The Batavia Town Board acknowledges and hereby gives public notice that official copies of the Comprehensive Plan and all modifications thereof shall be on file in the Office of the Batavia Town Clerk;

NOW THEREFORE BE IT RESOLVED, that

1. The document entitled Town of Batavia Comprehensive Plan, Dated March 2017 and revised section 8 Transportation, Utilities and Public Services dated April 2017 is hereby

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adopted as the Comprehensive Plan for the Town of Batavia, Genesee County, New York in accordance with Section 272-a of the NYS Town Law.

2. In order for the Comprehensive Plan to be at all times current with the needs of the community, and to provide appropriate direction to the various municipal boards, agencies and departments of the Town, the Town Planning Board shall annually review the Comprehensive Plan and make recommendations for revisions by the Town Board, as may be deemed necessary, following public review and input. Should the Town Planning Board find that no changes are necessary, this finding shall be reported.

Second by: Councilwoman White
Ayes: Underhill, White, Michalak
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 72:

Councilwoman Michalak offered the following:

TRAINING WORKSHOP

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

Paul McCullough, Kathy Jasinski, Jeremy Liles, Jon Long, Don Partridge, and Brittany Witkop- Genesee County Agricultural & Farmland Protection Plan Public Meeting (was) April 4, 2017.

Teressa Morasco and Rhonda Saulsbury- Local Update of Census Addresses Workshop (was) April 12, 2017. There is no cost for this workshop. A Town vehicle was used.

Tom Lichtenthal- Extreme Weather Training May 3, 2017. There is no cost for this training.

Melissa Mason and Sarah Sauka- Southern Tier West Annual Local Government Conference May 10, 2017. The cost for this training is \$50.00 each. A Town vehicle will be used.

Tom Lichtenthal- Highway School June 12-14, 2017. The cost for this training and lodging is appropriately \$500.00.

Hiedi Librock- Association of Towns Finance Training May 4 and May 5, 2017. The cost for this training is \$225.00. A Town vehicle will be used.

Marcy Crandall- WNY Water Works Conference May 3, 2017 at a cost of \$15.00.

Second by: Councilwoman White
Ayes: Michalak, White, Underhill
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 73:

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Councilwoman White offered the following:

**RESOLUTION FOR ACQUISITION AND TRANSFER OF
REAL PROPERTY
FEDERAL DRIVE**

WHEREAS, Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (GCEDC) has offered to sell to the Town of Batavia two parcels of land located on Federal Drive in Gateway I Industrial Park for future development; and

WHEREAS, one parcel known as tax map # 8.-1-45.116 consisting of approximately 0.68 acres and other known as tax map # 8.-1-65 consisting of approximately 4.20 acres, and

WHEREAS, the Town Board desires to accept the offer to purchase each parcel for \$1.00 each; and

WHEREAS, such action is not subject to a permissive referendum.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that the purchase of parcel 8.-1-65 containing approximately 4.20 acres from GCEDC for \$1.00 is hereby authorized; and be it further

RESOLVED by the Town Board of the Town of Batavia, New York that the purchase of parcel 8.-1-45.116 containing approximately .68 acres from GCEDC for \$1.00 is hereby authorized; and be it further

RESOLVED, that these parcels of land shall be used for future development and that the Town Board finds this conveyance to be in the public interest, and be it further

RESOLVED that the Town Supervisor is hereby authorized and directed to sign all documents necessary to accept the Quit Claim Deeds from GCEDC and to record these Deeds, contingent to the review and approval of deed documents by the Town Engineer and the Attorney for the Town.

Second by: Councilwoman Michalak

Ayes: White, Michalak, Underhill

APPROVED by unanimous vote (3-0)

RESOLUTION NO. 74:

Deputy Supervisor Underhill offered the following:

**RESOLUTION IN SUPPORT OF THE TOWNS OF ALABAMA AND OAKFIELD
TO CONNECT TO THE TOWNLINE FACILITIES**

WHEREAS, the Town of Oakfield Water District No. 9 and Town of Alabama Water District No.

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3 are proposing a joint project to establish water utilities in both Towns, and

WHEREAS, the Towns requested permission to connect to the Batavia North Water District/Town of Oakfield Water District No. 6 water main, which is a jointly owned facility; and

WHEREAS, on August 19, 2015 the Batavia Town Board adopted a resolution of intent for the Towns of Oakfield and Alabama to connect to the Batavia North Water/District/Town of Oakfield Water District No. 6 Water Main and for the Town of Batavia to provide Operation and Maintenance of the Water Facilities.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board supports and has no objections to the Town of Oakfield Water District No. 9 and the Town of Alabama Water District No. 3 connecting to the Townline Water District Water Main.

Second by: Councilwoman Michalak
Ayes: Underhill, Michalak, White
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 75:

Councilwoman Michalak offered the following:

**RESOLUTION TO APPROVE AN OPERATION AND MAINTENANCE INTERMUNICIPAL
AGREEMENT WITH
THE TOWNS OF ALABAMA AND OAKFIELD**

WHEREAS, the Towns of Oakfield and Alabama have proposed a joint project to establish water utilities in both Towns, and

WHEREAS, in furtherance of this project, the Town of Oakfield has established Water District No. 9 and the Town of Alabama has established Water District No. 3, and

WHEREAS, both Towns have determined that currently it would be in the best interest of the residents of their respective Water Districts to enter into an Intermunicipal Agreement with the Town of Batavia in order to arrange for Batavia to operate and maintain the joint water facilities, and

WHEREAS, the Town of Batavia has the competency and capacity to operate and maintain the joint water facilities pursuant to the terms and conditions of the proposed Intermunicipal Agreement.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Batavia, New York, that a proposed “Intermunicipal Agreement for Operation and Maintenance of Water Facilities for the Town of Oakfield Water District No. 9 and Town of Alabama Water District No. 3 Project”, by and among the Town of Oakfield on behalf of Water District No. 9, the Town of Alabama on behalf of Water

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District No. 3, and the Town of Batavia, a copy of which is to be made a part of the Town Board Minutes, is hereby approved, and

BE IT FURTHER RESOLVED that the Batavia Town Supervisor is hereby authorized and directed to execute this Intermunicipal Agreement on behalf of the Town of Batavia.

Second by: Councilwoman White
Ayes: Michalak, White, Underhill
APPROVED by unanimous vote (3-0)

INTERMUNICIPAL AGREEMENT FOR OPERATION AND MAINTENANCE
OF WATER FACILITIES
FOR THE
TOWN OF OAKFIELD WATER DISTRICT NO. 9
AND
TOWN OF ALABAMA WATER DISTRICT NO. 3 PROJECT

THIS AGREEMENT, made the _____ day of _____, 20____, by and among the **TOWN OF BATAVIA**, a Municipal Corporation of the State of New York, with offices located at 3833 West Main Street Road, Batavia New York 14020, (hereinafter “Batavia”); the **TOWN OF ALABAMA**, a Municipal Corporation of the State of New York, with offices located at 2218 Judge Road, Oakfield, New York 14125, (hereinafter “Alabama”); and the **TOWN OF OAKFIELD**, a Municipal Corporation of the State of New York, with offices located at 3219 Drake Street, Oakfield, New York 14125, (hereinafter “Oakfield”); (hereinafter referred to collectively as the “Towns”).

WITNESSETH:

WHEREAS, Batavia has previously entered into a Water Supply Agreement with the County of Genesee, whereby the County supplies an adequate quantity of water for use by Batavia’s residents who are obtaining water services, and

WHEREAS, both the Alabama and Oakfield Districts will be contracting with Genesee County for the supply of water through lines owned jointly by the Towns of Batavia, Elba and Oakfield, and

WHEREAS, Oakfield and Alabama intend to construct, operate and maintain a joint water distribution system referred to as the Town of Oakfield Water District No. 9 and Town of Alabama Water District No. 3 Project, (hereinafter “Project”), and

WHEREAS, this Project will consist of the construction of approximately 12,300 linear feet of new 8 inch diameter water main, together with all related hydrants, valves, apparatus, conduits, pipes, casings, meters and manholes; to also include all interests in real property of any kind or nature to the

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extent assignable; to be installed along portions of the Batavia-Oakfield Townline Road, Macomber Road, Townline Road, and Towne Place, (hereinafter referred to collectively as the “Facilities”), and

WHEREAS, Alabama, in furtherance of this Project, has established Water District No. 3, (hereafter “Alabama 3”), and

WHEREAS, Oakfield, in furtherance of this Project, has established Water District No. 9, (hereafter “Oakfield 9”), and

WHEREAS, the Facilities will be constructed and financed as set forth in a document, entitled “Map, Plan and Report for the Town of Oakfield proposed Water District No. 9 and the Town of Alabama proposed Water District No. 3, dated February 2015, and

WHEREAS, it is intended that the Facilities will be owned by Oakfield pursuant to an “Intermunicipal Agreement for Oakfield Water District No. 9 and Alabama Water District No. 3, dated March 8, 2016, and

WHEREAS, the Towns of Alabama and Oakfield desire to contract for the operation and maintenance of the Facilities located within their Towns; as well as for the billing and collection of the costs to provide and pay for the water service, and

WHEREAS, Batavia will lease the Facilities to be owned by Oakfield in order to perform the services and responsibilities as set forth herein, pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is agreed as follows:

1. Oakfield does hereby lease the Facilities to the Town of Batavia for the term as hereinafter set forth in this Agreement.

2. The leased Facilities include replacements, additions, betterments and improvements, which may hereinafter during the term of this Agreement be furnished and installed within or on behalf of the entire Project and/or any respective Water District.

3. Batavia agrees to operate, maintain and repair the entire Project Facilities and to distribute water on behalf of Alabama and Oakfield to the respective Water Districts within each Town.

4. The cost for these services shall be determined in accordance with Batavia’s current Rate Schedule in effect, and as amended from time to time by Batavia. Batavia’s Rate Schedule currently requires payment by each customer for water service to be charged at the rate of \$5.10 per 1,000 gallons of water used, with this cost determined as follows:

A. Purchase	\$2.21
B. Genesee County Surcharge	\$0.60
C. Capital Reserve	\$0.31
D. Operation and Maintenance	\$1.98

5. No later than at least forty-five (45) days in advance, Batavia will provide to the other two Towns any proposed amendments to the Rate Schedule, which shall break out the various costs for water supply, operation, maintenance and capital improvement reserve. During this forty-five (45) day period, the Supervisors from all three Towns shall meet at least once, to discuss the proposed rate change issue. During the term of this Agreement, users in all three Towns will pay the same water rate.

6. The Towns of Alabama and Oakfield hereby respectively retain the right to add any additional charges for the delivery of water service within their respective Water Districts, and shall be entitled to collect and remit any such charges from their respective District users to their respective Town.

7. Maintenance and repair by the Town of Batavia as referred to in this Agreement shall be defined as a project which costs the sum of \$20,000.00 or less. Any project or improvements costing more

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than \$20,000.00 shall be considered as a capital expense, and each respective Town shall be responsible to pay for or to reimburse Batavia for all capital expenses in the same proportion as the original capital costs distribution between Alabama and Oakfield.

8. All performance of services that will be provided by Batavia shall be pursuant to Subpart 5-1, Public Water Supplies of the New York State Sanitary Code and Batavia's Water Ordinance, (hereinafter the "Ordinance"). The Ordinance may be amended from time to time by Batavia. However, Batavia agrees to inform the other two Towns at least forty-five (45) days prior to implementing any such amendments. During this forty-five (45) day period, the Supervisors from all three Towns shall meet at least once to discuss the proposed Ordinance changes.

9. Upon request, Batavia shall supply copies of any test reports required by the New York State Department of Health to the other two Towns.

10. Batavia shall read all meters and invoice the customers of the Alabama 3 and Oakfield 9 Water Districts.

11. All Batavia invoices to the Water District customers included in this Agreement, shall be due and paid according to the terms of the Ordinance, including penalties for late payments, in effect as of the date of the invoice for such water. In the event that any such customer is delinquent for more than ninety (90) days, Alabama and Oakfield will have in effect rules and regulations to enforce collection of such charges, and to make payment to Batavia, including; but not limited to collecting payment by relevying upon tax bills.

12. Alabama and Oakfield, upon request by Batavia, shall make payments to Batavia for any water bills of customers within their respective two Water Districts that are more than ninety (90) days in arrears.

13. Batavia shall make any and all payments related to water supply to Genesee County on behalf of Alabama and Oakfield, according to the terms set forth in the Water Supply Agreements in effect between Genesee County and Alabama and Oakfield.

14. Customers within the two Water Districts located in the Project area shall purchase water to serve present and future needs of these Districts pursuant to the Water Supply Agreements by and between the County of Genesee and the respective Towns of Oakfield and Alabama.

15. Any and all extensions of any of the two Water Districts to be formed and constructed and/or addition of new Water Districts or appurtenances shall be in accordance with all of Batavia's standards.

16. Maps of the proposed two Water District service areas to be served by the Towns is annexed hereto and made a part of this Agreement as **EXHIBIT A**. These maps shall be amended as necessary from time to time to reflect any customers added by any of the two Water Districts. Any such amendment that expands or extends Alabama 3 and Oakfield 9, shall be approved by Batavia and shall not negatively affect supply or service to existing Batavia customers.

17. Alabama and Oakfield agree that Batavia may use the Facilities of the two Districts within the Project area or its extensions, without the imposition of any rentals or other charges of any kind or nature, to serve water to areas located outside of the initial limits of the two Water Districts within the Project area. Batavia agrees that such use by it of the Facilities shall not reduce below accepted standards (as established by applicable Federal and State Laws, Rules and Regulations and Batavia's Ordinance), the supply or pressure of water to be furnished by Batavia to the residents and inhabitants within the two Districts and/or other water customers within the three Towns.

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18. Batavia agrees that service to other areas outside of the initial two Water Districts within the Project area shall comply with the requirements of any and all existing Water Supply Agreements with Genesee County and the respective Towns of Batavia, Alabama and Oakfield, and any amendments thereto.

19. All extensions to any of the two Water Districts within the initial Project area, after the execution of this Agreement, shall be made under the exclusive control and jurisdiction of the respective Town where the extension is made, and shall be subject to the provisions of the Town Law and any amendments thereof. In the event that Alabama 3 and/or Oakfield 9 shall form one or more extensions, said extension shall be subject to the following terms and conditions:

A. At the request of the extending Water District, Batavia may provide the services of its Engineering Department to assist the extending District in the preparation and formation of necessary plans, drawings and specifications of the proposed distribution system construction. Said services may be provided to the extending Districts so long as Batavia is given reasonable notice of the need for, and the scope of such services, and Batavia and the extending District establishes mutually agreeable terms for the completion of services.

B. Said distribution system shall service the entire area of said extension and shall be installed without cost to Batavia.

C. The Town where the extensions are made shall have the exclusive right to determine the amount of any fee to be charged to any such extension and to be paid to it by the customers in the extension for the right to connect to the existing Facilities of the Project area. The fee shall belong exclusively to the Town where the District is extended and Batavia shall have no right or interest to this fee or any other charges related thereto.

D. The extension to the Water District shall comply with all applicable Laws, Rules and Regulations, including Batavia's Ordinance, and shall obtain all necessary governmental approvals with respect to the formation of any extensions and the construction of the distribution system therein.

20. Oakfield and Alabama, on behalf of the two respective Districts to be constructed pursuant to the Project; as well as any other Water Districts now existing or developed in the future within any of the two respective Towns, shall bear the full costs related to the formation of any such Water District, or installation or maintenance of facilities, including meters, except as specifically agreed herein.

21. This Agreement is subject to the consent and approval of the Genesee County Legislature; as well as consent and approval by the joint owners of the Townline Water Project facilities, namely, the Towns of Batavia, Elba and Oakfield.

22. As a condition of the County approval, the Towns of Alabama and Oakfield, individually and on behalf of its respective Water Districts, agree to form any Water Districts as requested by Genesee County associated with any future construction of water supply or distribution facilities described in the February 1999 Genesee County Water Supply System Final Environmental Impact Statement. Genesee County shall provide the necessary District Formation Reports at no cost to any of the respective Towns. Genesee County shall construct or cause to be constructed certain facilities in accordance with the February 1999 Genesee County Water Supply System Final Environmental Impact Statement. The determination and scheduling of the construction of such water supply facilities, shall be at the sole discretion of Genesee County.

23. It is understood and agreed that Batavia makes no guarantee as to the pressure, quantity, quality or continuity of service, and shall not, under any circumstances, be held liable for loss or damage

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from a deficiency or failure in the supply of water whether caused by shutting off water in case of accident, or for alterations, extensions, connections or repairs or for any other cause of any kind or nature.

24. In the event of an emergency or other necessity, Batavia shall have the right to shut off or reduce the flow of water for such periods that it deems necessary.

25. In the event that Batavia deems it necessary to shut off or reduce the flow of water supply, Batavia shall provide the other two Towns with reasonable advance notice when possible. Batavia shall correct the situation as soon as practicable.

26. Alabama and Oakfield shall have the right to request that Batavia temporarily turn off its transmission main and any such requesting Town shall be able to temporarily obtain its required water requirements from another source, only until such time as the corrected measures taken by Batavia have been inspected and approved by Batavia's Water Department.

27. If Batavia deems that there is a condition in Alabama 3 and/or Oakfield 9 that could contaminate the water supply, Batavia will notify the other two Towns and the respective two Towns as the situation requires, will correct the problem as soon as practicable. Batavia may temporarily discontinue service to any such Water District until the necessary corrections have been made.

28. In the event that a water emergency is declared by Batavia, Batavia shall notify the Town Supervisors of the other two Towns, and the Town Boards of these two Towns shall declare a similar emergency with respect to all water supplied to customers within the two Water Districts of the respective Towns. The two Towns shall duplicate any emergency measures taken by Batavia during such water emergency.

29. Alabama and Oakfield shall immediately notify Batavia of any information or complaints that it receives from customers within the respective Water Districts; as well as any problems or difficulties relating to the Facilities and the water distribution system.

30. There are no other Agreements or understandings, either oral or written, by and among the parties effecting this Agreement. No changes, addition 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.

31. This Agreement may not be assigned by any party, in whole or in part, without the prior written consent of all three of the parties.

32. This Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto and their respective successors and permitted assigns.

33. This Agreement and any transactions by and among the parties hereunder shall be governed by, construed and interpreted in accordance with the Laws of New York.

34. The parties shall execute such further instruments, documents or certificates as may be necessary or desirable to effectuate the purpose and intent of this Agreement.

35. No waiver of compliance with any provision or condition of this Agreement, and no consent provided for herein, shall be effective, unless evidenced by instrument in writing, duly executed by the parties sought to be charged therewith.

36. No failure on the part of any party to exercise and/or any delay in exercising any of its rights hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise by any party of any right preclude any other or future exercise thereof or the exercise of any other right.

37. All the rights and duties of the parties created by this Agreement shall survive with respect to the services performed prior to such terminations.

38. This Agreement may be executed in several counterparts, each of which shall be an original and all which shall constitute the same instrument herein.

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39. The term of this Agreement shall be for a period of forty (40) years, with the following provisions:

A. This Agreement may be terminated or extended upon a written instrument executed by all three parties herein.

B. This Agreement shall terminate on the effective date of any contract with any entity assuming operation of the Town of Batavia Water Supply System.

C. Oakfield and Alabama together may terminate this Agreement upon at least two (2) years prior written notice to Batavia. In the event that Batavia provides operation and maintenance services to Oakfield and/or Alabama to water districts beyond either Oakfield Water District No. 9 and/or Alabama Water District No. 3, then Oakfield and/or Alabama must also terminate the services of Batavia for these additional areas in order to eliminate the possibility that there are any "gaps" in areas of water facilities for which Batavia is providing operation and maintenance.

D. Batavia may terminate this Agreement upon at least two (2) years prior written notice to Oakfield and Alabama.

IN WITNESS WHEREOF the parties have last signed this Agreement the day and year first written above.

TOWN OF BATAVIA (SEAL)

Gregory H. Post, Supervisor

TOWN OF ALABAMA (SEAL)

Janet Sage, Supervisor
TOWN OF OAKFIELD (SEAL)

Carol L. Glor, Supervisor

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 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.

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Notary Public

State of New York }
County of Genesee }ss.

On this _____ day of _____, 20____, before me, the undersigned, personally appeared Janet Sage, 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 this _____ day of _____, 20____, before me, the undersigned, personally appeared Carol L. Glor, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

RESOLUTION NO. 76:

Councilwoman White offered the following:

**RESOLUTION TO APPROVE AGREEMENT WITH GAR ASSOCIATES LLC
FOR PROFESSIONAL REAL PROPERTY ASSESSMENT SERVICES
SCP DISTRIBUTORS LLC ASSESSMENT LITIGATION**

WHEREAS, a Notice of Petition was served upon the Town of Batavia on July 21, 2016 for a 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, on August 17, 2016 the Town of Batavia retained Joel R. Kurtzhalt, Esq. of the Law Firm Bennett, DiFilippo & Kurtzhalt, LLP as special counsel to defend the Town in the above-named tax assessment litigation; and

WHEREAS, Joel R. Kurtzhalt, Esq recommends obtaining a preliminary value opinion from

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GAR Associates, in order, to determine how to proceed forward with the litigation; and

WHEREAS, Gar Associates LLC has proposed to provide professional assessment services by preparing a “Restricted Appraisal Report” in the form of a “Informal Value Opinion” at a cost of \$1,500.00.

NOW, THEREFORE, BE IT

RESOLVED by the Town Board of the Town of Batavia, New York, that the proposed engagement letter contract dated March 22, 2017 for an Informal Value Opinion Restricted Appraisal Report, a copy of which shall be made a part of the Town Board Minutes, by and between the Town of Batavia and GAR Associates LLC is hereby approved and the Town Supervisor is hereby authorized and directed to execute this engagement letter contract on behalf of the Town, relating to the SCP Distributors LLC, 4430 Saile Drive assessment litigation; and be it further

RESOLVED that the Town Supervisor is hereby authorized and directed to pay GAR Associates LLC a sum not to exceed \$1,500.00 for the professional real property assessment services set forth in the contract.

Second by: Councilwoman Michalak
Ayes: White, Michalak, Underhill
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 77:

Deputy Supervisor Underhill offered the following:

MEMORIAL DAY
WREATHS

WHEREAS, the Town of Batavia has provided three wreaths for Memorial Day in honor of our veterans; and

WHEREAS, the Town would like to continue to provide wreaths; and

WHEREAS, the wreaths will be placed at Daws Corners Cemetery and Grandview Cemetery by the Batavia Memorial Day Committee (Disabled American Veterans, VFW, American Legion, Marine Corp League, and Vietnam Veterans of America).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes three (3) wreaths to be purchased from Floral Fantasies at a cost of sixty-five dollars (\$65.00) each; and be it further

RESOLVED, the expenditure will be appropriated from line item A6510.400-Veterans Services.

Second by: Councilwoman Michalak

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Ayes: Underhill, Michalak, White
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 78:

Councilwoman Michalak offered the following:

**MEMORIAL DAY
FLAGS**

WHEREAS, the Daughters of American Revolution and the American Legion place flags at the grave sites of our veterans on Memorial Day in the Town Cemeteries; and

WHEREAS, these organizations have requested the Town of Batavia to prove the flags as it was done in the past; and

WHEREAS, the 2017 budget reflects appropriations for this purchase; and

WHEREAS, the flags will be placed at Daws Corners Cemetery and Grandview Cemetery by the Daughters of the American Revolutionary War and the Batavia Memorial Day Committee (Disabled American Veterans, VFW, American Legion, Marine Corp League, and Vietnam Veterans of America).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase two (2) gross 8” x 12” poly-cotton American Stick Flags from AmericanLegionFlags.com at a cost of \$89.95 per gross plus \$15.95 shipping for a total cost of \$195.85; and be it further

RESOLVED, the expenditure will be appropriated from line item A6510.400-Veterans Services.

Second by: Councilwoman White
Ayes: Michalak, White, Underhill
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 79:

Councilwoman White offered the following:

RESOLUTION TO APPROVE A

SECOND AMENDED ASSESSMENT SERVICES AGREEMENT

WITH THE TOWN OF BERGEN

WHEREAS, the Town of Batavia, (hereinafter “Batavia”) and the Town of Bergen, (hereinafter “Bergen”) entered into a contract entitled “Towns of Batavia and Bergen Assessment Services Agreement”, dated July 28, 2015; and

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WHEREAS, both Towns desire to continue this relationship, allowing Batavia to provide assessment services to Bergen, and

WHEREAS, the Batavia has determined that it has the ability to provide the services by using the Batavia Town Assessor, who is and will continue to be fully qualified as required by law to provide assessment services, with any support staffing, as necessary.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that a proposed “Second Amended Towns of Batavia and Bergen Assessment 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; and be it further

RESOLVED that the effective date of this Agreement shall be July 1, 2017.

Second by: Councilwoman Michalak
Ayes: White, Michalak, Underhill
APPROVED by unanimous vote (3-0)

SECOND AMENDED
TOWNS OF BATAVIA AND BERGEN
ASSESSMENT SERVICES AGREEMENT

THIS AGREEMENT made the _____ day of _____, 2017, by and between the **TOWN OF BERGEN**, a municipal corporation organized and existing under the Laws of the State of New York, having its principal office located at 10 Hunter Street, Bergen, New York 14416, (hereinafter referred to as “Bergen”), 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, Bergen and Batavia are authorized to enter into an inter-municipal cooperative agreement for the provision of tax assessment services, and

WHEREAS, Batavia currently is employing an Assessor fully qualified to provide all assessment services as required by law, and

WHEREAS, Batavia intends to continue to maintain the position of Assessor and to provide any support staff necessary to assist her/him to perform assessment duties in both the Towns of Batavia and Bergen.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained

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herein, it is agreed as follows:

1. Batavia agrees to provide assessment services to Bergen and shall provide a qualified individual to perform said duties outlined herein. The person appointed as Assessor must satisfy the minimum qualification standards for real property assessors established by the State Board of Real Property Services.
2. The Assessor provided by Batavia shall be responsible for assessing all parcels of real property located in Bergen and in Batavia for the purposes of taxation and special ad valorem levies for town, county, special district and school district. The Assessor shall also oversee all other duties as required for assessors by the Real Property Tax Law and the rules of the State Board of Real Property Services. All real property shall be assessed at the same uniform percentage of market value in all of the assessing units participating in the Agreement throughout the term of the Agreement. Such percentage of market value shall be annually printed on the tentative assessment rolls for the participating assessing units.
3. The dates applicable to the assessment process in each municipality, including taxable status date, and the dates for the filing of the tentative and final assessment rolls, shall be the same.
4. The Assessor personally and/or by employees under his/her direction shall be present for office hours in the Bergen Town Assessors Office for a total of four (4) hours per week. The days and times of these office hours shall be mutually agreed. Additionally the Assessor can be available by appointment or during regular office hours at the City or Town of Batavia offices.
5. The Assessor and any support staff shall for all purposes be deemed employees of Batavia. The Assessor and any support staff shall not in any way be construed as employees of Bergen. Batavia shall pay the salary and make employer's contributions for retirement, social security, health insurance, worker's compensation, unemployment and other similar benefits for the Assessor, as well as for any other individuals employed by Batavia to fulfill the terms and conditions of this Agreement as support staff.
6. Batavia shall indemnify and hold Bergen harmless from any claims made against Bergen by the Assessor, or any third party, arising out of any acts of misfeasance, malfeasance, or non-feasance by the Assessor in the performance of his/her duties while working for Batavia, including costs of settling any action and reasonable attorney's fees for defense. Bergen shall indemnify and hold Batavia harmless from any claims made against Batavia by the Assessor, or any third party, arising out of any acts of misfeasance, malfeasance, or non-feasance by the Assessor in the performance of his/her duties while working for Bergen, including costs of settling any action and reasonable attorney's fees for defense. Each party will provide the other with timely notice of any claims and shall fully cooperate with each other to defend the same.

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7. Batavia shall pay all costs and expenses relating to defending any assessment challenge brought in its jurisdiction and Bergen shall pay all costs and expenses related to defending any assessment challenge brought in its jurisdiction.

8. The terms and conditions of this Agreement shall begin on July 1, 2017, and shall end on June 30, 2018. In order to allow both municipalities to make alternative arrangements for assessment duties, if necessary, the rights and duties of both parties shall not extend beyond the termination date, unless on or before April 30, 2018, Bergen and Batavia enter into an additional Agreement to renew or extend this contractual arrangement upon mutually agreed upon terms and conditions.

9. In consideration and for compensation for the services set forth herein, Bergen shall pay to Batavia the total sum of twenty-five thousand dollars (\$25,000.00) for this Agreement. This sum shall be paid in two equal installments of twelve-thousand, five-hundred dollars. The first payment due on or before October 1, 2017 and the second payment due on or before March 1, 2018.

10. In the event that the current Town of Batavia Assessor shall resign or otherwise is no longer able to provide assessment services to Batavia, then Bergen, at its sole option and discretion, may terminate this Agreement with at least thirty (30) days prior written notice to Batavia and thereafter, this Agreement shall be null and void.

11. 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 parties have hereunto set their hands and seals the day and year first above written.

TOWN OF BATAVIA

By: Gregory H. Post, Town Supervisor

TOWN OF BERGEN

By: Donald Cunningham, Town Supervisor

State of New York }
County of Genesee }ss.

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On this _____ day of _____, 2017, 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 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 _____, 2017, before me, the undersigned, personally appeared Donald Cunningham, 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

RESOLUTION NO. 80:

Deputy Supervisor Underhill offered the following:

**FIRST AMENDED
SHARED SERVICES AGREEMENT
WITH BATAVIA CITY SCHOOL DISTRICT**

WHEREAS, in April 2012 the Town of Batavia entered into a shared services agreement with the Batavia City School District for sharing equipment, materials and services for the mutual benefit of both parties; and

WHEREAS, the Highway Superintendent has determined that it is in the best interest of the Town to continue to be a party to such shared services agreement and recommends approval.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Supervisor is hereby authorized and directed to execute the First Amended Shared Services Agreement with the Batavia City School District, a copy of which is annexed hereto and made a part of the minutes, which shall be effective immediately for five (5) years and shall expire five (5) years from the date of its signing. The Town Board may review this agreement each year.

Second by: Councilwoman White

Ayes: Underhill, White, Michalak

APPROVED by unanimous vote (3-0)

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FIRST AMENDED
SHARED SERVICES AGREEMENT
FOR THE BATAVIA CITY SCHOOL DISTRICT

1. For purposes of this contract, the following terms shall be defined as follows:
 - a. “Municipality or District” shall mean any city, county, town or village or school district which has agreed to be bound by a contract for shared services or equipment similar in terms and effect with the contract set forth herein, and has filed a copy of said contract with their respective clerk.
 - b. “Designated Filing Agent” shall mean the clerk of said municipality or school district.
 - c. “Contract” shall mean the text of this agreement which is similar in terms and effect with comparable agreements, notwithstanding that such contract is signed only by the chief executive officer of each participating municipality or school district filing the same, and upon such filing each filing municipality or district accepts the terms of the contract to the same degree and effect as if each chief executive officer had signed each individual contract.
 - d. “Shared Service” shall mean any service provided by one municipality or district for another that is consistent with the purposes and intent of this contract and shall include but not limited be to:
 - i. The renting, exchanging or lending of machinery, tools and equipment, with or without operators;
 - ii The providing of a specific service;
 - iii The maintenance of machinery or equipment.
 - e. “Superintendent” shall mean, in the case of a city, the head of the department of public works; in the case of a county, the county superintendent of highways, or the person having the power and authority to perform the duties generally performed by county superintendent of highways; in the case of a town, the town superintendent of highways and/or superintendent of public works; in the case of a village, the superintendent of public works, in the case of a school district the director of the buildings and grounds department.
2. The Town of Batavia has caused this agreement to be executed and to bind itself to the terms of this contract and it will consider this contract to be applicable to any municipality or school district which has approved a similar contract and filed such contract with the Town of Batavia Clerk.
3. The Town of Batavia by this agreement grants unto the superintendent, the authority to enter into any shared service arrangements with any other municipality or school district subject to the following terms and conditions:

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- a. The Town of Batavia agrees to rent or exchange or borrow from any municipality or school district any and all materials, machinery, and equipment, with or without operators, which it may need for the purposes of the Town. The determination as to whether such machinery, with or without operators, is needed by the Town, shall be made by the superintendent. The value of the materials or supplies borrowed from another municipality or school district under this agreement may be returned in the form of similar types and amounts of materials or supplies, or by the supply of equipment or the giving of services of an equal value, to be determined by the mutual agreement of the respective superintendents.
- b. The Town of Batavia agrees to rent, exchange or lend to any municipality or school district any and all materials, machinery, and equipment, with or without operators, which such municipality may need for its purposes. The determination as to whether such machinery, with or without operators, or material is available for renting, exchanging or lending shall be made by the superintendent. In the event the superintendent determines that it will be in the best interests of the Town to lend to another municipality or school district, the superintendent is hereby authorized to lend to another municipality or school district. The value of the materials or supplies loaned to another municipality under this agreement may be returned to the Town in the form of similar types and amounts of materials or supplies, or by the supply of equipment or the giving of services of an equal value, to be determined by the mutual agreement of the respective superintendents.
- c. The Town of Batavia agrees to repair or maintain machinery or equipment for any municipality or school district under terms that may be agreed upon by the superintendent, upon such terms as may be determined by the superintendent.
- d. An operator of equipment rented or loaned to another municipality or school district, when operating such equipment for the borrowing municipality, shall be subject to the direction, supervision and control of the superintendent of the borrowing municipality or school district in relation to the manner in which the work is to be completed. However, the method by which the machine is to be operated shall be determined by the operator.
- e. When receiving the services of an operator with a machine or equipment, the receiving superintendent shall make no request of any operator which would be inconsistent with any labor agreement. All machinery and the operator, for purposes of worker's compensation, liability and any other relationship with third parties, shall be considered the machinery of, and the employee of, the municipality or school district owning the machinery and equipment.
- f. The lending municipality or school district shall be liable for any negligent or otherwise wrongful acts of its employees including but not limited to those resulting from the operation of its machinery or equipment by its own operator. In addition, the lending municipality or school district agrees to defend, indemnify and hold harmless the borrowing municipality or school district for all claims, damages, suits penalties, fines and liabilities for injury or death to persons, or loss or damage to property, arising out of the use and operation of equipment by the lending municipality's or school district's operator of the alleged negligent, wrongful, reckless or culpable acts of lending municipality's or school district's employee(s).

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g. Each municipality or school district shall remain fully responsible for its own employees, including, but not limited to, salary, benefits and worker's compensation.

4. In the event machinery or equipment being operated by an employee of the owning municipality or school district is damaged or otherwise in need of repair while working for another municipality or school district, the municipality or school district owning the machinery or equipment shall be responsible to make or pay for such repairs. In the event machinery or equipment is operated by an employee of the borrowing, receiving or renting municipality or school district, such municipality or school district shall be responsible for such repairs.

5. Any municipality or school district which is a party to this contract may revoke such contract by filing a notice of such revocation. Upon the revocation of such contract, any outstanding obligations shall be submitted within thirty days of such revocation.

6. Any action taken by the superintendent pursuant to the provisions of this contract shall be consistent with the duties of such official and expenditures incurred shall not exceed the amounts set forth in the Town budget for highway purposes.

7. If any provision of this contract is deemed to be invalid or inoperative for any reason, that part may be modified by the municipalities or school district which are party to this contract to the extent necessary to make it valid and operative, or if it cannot be modified, then severed, and the remainder of the contract shall continue in full force and effect as if the contract had been signed with the invalid portion so modified or eliminated.

8. This contract shall be reviewed each year by the Town Board and shall expire five years from the date of its signing by the Town Supervisor. The Town may extend or renew this contract at the termination thereof for another five year period.

9. Copies of this contract shall be sent to the clerk and the superintendent of each municipality or school district with which the superintendent anticipates engaging in shared services. No shared services shall be conducted by the superintendent except with the superintendent of a municipality or school district that has completed a shared services contract and has sent a copy thereof to the clerk of his or her municipality or school district and the superintendent.

IN WITNESS THEREOF, the said Town of Batavia has by order of the Town Board, caused these presents to be subscribed by the Town Supervisor, and the seal of the Town to be affixed and attested by the Clerk thereof, this _____ day of _____, 20__.

TOWN OF BATAVIA

By: _____
Gregory H. Post, Town Supervisor

Attest: _____
Teresa M. Morasco, Town Clerk

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Attest: _____
Thomas Lichtenthal, Highway Superintendent

BATAVIA CITY SCHOOL DISTRICT
By: _____
Christopher J. Dailey, School District Superintendent

Attest: _____
Witness
Attest: _____
James L. Jacobs, Director of Buildings and Grounds

RESOLUTION NO. 81:

Councilwoman Michalak offered the following:

**RESOLUTION TO APPROVE ADDENDUM TO THE
AGREEMENT WITH nCourt, LLC
CREDIT CARD SERVICES**

WHEREAS, the Town of Batavia entered in to an agreement with nCourt, LLC on September 21, 2016 to allow this Company to collect fines, surcharges and any other costs levied by the Batavia Town Court, and

WHEREAS, nCourt, LLC submitted an addendum dated March 23, 2017 offering credit card services; and

WHEREAS, Batavia Town Justice Michael Cleveland, submitted a Memo to the Town Board, dated March 24, 2017, requesting that the Town Board review and approve this addendum to the Agreement, based upon the fact that it would connect directly to the computer and upon credit card payment approval the case file would automatically be updated, which is much more enhanced than the current credit card services being used; and

WHEREAS, there will be no cost or expenses to the Batavia Town Court or to the Town of Batavia.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that a proposed Letter Addendum Agreement, dated March 23, 2017, which is annexed hereto and made a part of the minutes, is hereby approved, and the Town Supervisor is hereby authorized and directed to sign the documents on behalf of the Town of Batavia.

Second by: Councilwoman White
Ayes: Michalak, White, Underhill
APPROVED by unanimous vote (3-0)

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RESOLUTION NO. 82:

Councilwoman White offered the following:

**RESOLUTION TO AUTHORIZE FOR PROFIT AND NOT-FOR-PROFIT VOLUNTEER
COMMUNITY SERVICE PROJECTS APPLICATION AND
ADVERTISEMENT OF
A TOWN OF BATAVIA COMMUNITY SERVICE PROJECT LIST**

WHEREAS, the Town of Batavia is committed to improving the quality of life for its residents,
and

WHEREAS, a list of small improvement projects has been compiled (attached), and

WHEREAS, the Town of Batavia recognizes the presence of for profit and not for profit
community service organizations in the community, and

WHEREAS, certain for profit and not-for profit organizations desire and/or require completion
of community service projects; and

WHEREAS, organizations interested in completing a project must complete a For-Profit and
Not-For-Profit Volunteer Community Service Application (application attached); and

WHEREAS, said application, along with proof of liability insurance must be submitted to the
Town Engineer for pre-approval with final approval from the Town Board prior to the commencement
of project.

NOW, THEREFORE, BE IT RESOLVED, the Batavia Town Board hereby adopts the For-
Profit and Not-For Profit Volunteer Community Service Project Application, a copy of which is annexed
hereto and made a part of the minutes; and be it further

RESOLVED, the Batavia Town Board hereby authorizes the advertisement of the Town of
Batavia Community Service Project List. A copy of the Community Service Project List is annexed
hereto and made a part of the minutes; and be it further

RESOLVED that the Town Engineer is authorized and directed to modify the For-Profit and
Not-for-Profit Volunteer Community Service Project Application and Community Service Project List
as necessary; and be it further

RESOLVED, the Town Engineer is hereby authorized to pre-approve applications, with final
approval from the Batavia Town Board.

Second by: Councilwoman Michalak

Ayes: White, Michalak, Underhill

APPROVED by unanimous vote (3-0)

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RESOLUTION NO. 83:

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO APPROVE LEGAL SERVICES AGREEMENT FOR
BATAVIA SOUTHWEST WATER DISTRICT**

WHEREAS, June 22, 2016 the Town of Batavia entered in an agreement with Kevin Earl for Legal Services for the Batavia Southwest Water District; and

WHEREAS, Kevin Earl, Attorney for the Town accepted a position as the Genesee County Attorney and no longer serves as the Attorney for the Town of Batavia; and

WHEREAS, Andrew Meier, Esq. of Webster Schubel Meier Elder Law, who is currently the Attorney for the Town has proposed a Legal Services Agreement for the Batavia Southwest Water District, and

WHEREAS, this proposed Legal Services Agreement proposes that the Attorney for the Town be paid at the rate of \$195.00 per hour for all work concerning the Water District, with a total amount not to exceed \$10,000, and

WHEREAS, the Batavia Town Board intends to accept this proposal.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that a proposed Legal Services Agreement with Attorney Andrew Meier, Esq. of Webster Schubel Meier Elder Law, a copy of which shall be made a part of the Town Board Minutes, is hereby approved at a cost of \$195.00 per hour for all work concerning the Water District, with a total amount not to exceed \$10, 000 and the Town Supervisor is hereby authorized and directed to execute this Legal Services Agreement on behalf of the Town of Batavia.

Second by: Councilwoman Michalak

Ayes: Underhill, Michalak, White

APPROVED by unanimous vote (3-0)

RESOLUTION NO. 84:

Councilwoman Michalak offered the following:

**RESOLUTION OF INTEREST TO PROVIDE
OPERATION AND MAINTENANCE OF WATER FACILITIES
TOWN OF ELBA WATER DISTRICT NO. 2**

WHEREAS, the Town of Elba is proposing a Water District No. 2 and is in the design and approval stages, and

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WHEREAS, the Town of Elba is interested in the Town of Batavia to provide Operation and Maintenance services, including billing for this Proposed District; and

WHEREAS, on behalf of the Town of Elba, Clark Patterson Lee, Engineering Firm is requesting the Town to provide an expression of interest; and

WHEREAS, the Batavia Town Engineer has reviewed the request and recommends consideration to provide such services.

NOW, THEREFORE, BE IT RESOLVED, the Batavia Town Board hereby gives its expression of interest to provide Operation and Maintenance of the new water facilities within the Town of Elba Water District No. 2., contingent upon the support from the Towns of Elba, Oakfield, and Batavia allowing connection to the Townline Jointly owned water main.

Second by: Councilwoman White
Ayes: Michalak, White, Underhill
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 85:

Councilwoman White offered the following:

NEW YORK GREEN, INCORPORATED
NEW YORK STATE DEPARTMENT OF STATE
COUNTYWIDE RESILIENCY PLANNING GRANT
LETTER OF SUPPORT

WHEREAS, New York Green, Incorporated submitted a Countywide Resiliency Planning Grant Application to New York State Department of State for funding to prepare a Countywide Resiliency Plan; and

WHEREAS, the Countywide Resiliency Plan will provide crucial support for Genesee County and its communities as it prepares for and adapts to the impacts of severe weather and related issues; and

WHEREAS, if said grant is awarded, the Town of Batavia wishes to partner with New York Green, Incorporated to prepare the Countywide Resiliency Plan.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby supports the Countywide Resiliency Planning Grant Application New York Green, Incorporated submitted to the New York State Department of State for Countywide Resiliency Plan funding and authorizes the Supervisor to send a letter of support to New York Green, Incorporated; and be it further

RESOLVED, if said grant is awarded, the Batavia Town Board hereby authorizes the Town of Batavia to participate as a partner to prepare the Countywide Resiliency Plan.

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Second by: Councilwoman Deputy Supervisor
Ayes: White, Michalak, Underhill
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 86:

Deputy Supervisor Underhill 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 March 14, 2017 and March 15, 2017:

Revenue Line Item:		Expenditure Line Item:	
SW2680	\$ 2,415.99	SW8340.104	\$ 157.84
		SW8340.106	\$ 142.36
		SW8340.400	\$ 2,115.79
SS12680	\$ 63.59	SS18120.400	\$ 63.59
SS22680	\$ 63.59	SS28120.400	\$ 63.59

Second by: Councilman
Ayes: Underhill, White, Michalak
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 87:

Councilwoman Michalak offered the following:

TOWN OF BATAVIA
SEQR RESOLUTION - NEGATIVE DECLARATION
TOWN OF BATAVIA KINGS PLAZA PUMP STATION IMPROVEMENTS

WHEREAS,

- 1) In accordance with the New York State Environmental Quality Review regulations (SEQR), the Town Board of the Town of Batavia announced its intent to serve as Lead Agency on January 18, 2017, to conduct an environmental review of the Town of Batavia Kings Plaza Pump Station Improvements. The project includes the replacement of the pumps, piping, valves, electrical components, generator, and controls. In addition, a new parshall flume and new magnetic flow meter will be installed on the discharge piping. Building deficiencies that will be addressed include the roof and door replacements. In addition, the current force main from the pump station will be replaced.
- 2) The Town Board has determined that the proposed action is an Unlisted action as defined under SEQR.

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- 3) The Town Board, in its capacity of Lead Agency, has caused to be prepared an environmental assessment of the significance of and potential environmental impact of the action described above.
- 4) The Town Board notified the Involved and Interested Agencies of its intention to act as Lead Agency for this project and circulated the full Environmental Assessment Form (EAF).
- 5) Comments on the EAF from Involved and Interested Agencies have been addressed (see Negative Declaration). The Town will obtain all necessary permits and approvals from Involved Agencies and will comply with agency requirements.
- 6) The Town Board has considered the Environmental Record prepared for this action, including any comments received from the Involved and Interested Agencies, and the proposed Negative Declaration.

NOW THEREFORE BE IT RESOLVED,

The Town Board declares that it will serve as Lead Agency for the Kings Plaza Pump Station Improvements; and,

The Town Board declares that, based on the Environmental Record which has been prepared, the project will result in no major impacts and, therefore, will not cause significant damage to the environment. A Negative Declaration under SEQR is therefore issued for this project.

Second by: Councilman Deputy Supervisor

Ayes: Michalak, White, Underhill

APPROVED by unanimous vote (3-0)

RESOLUTION NO. 88:

Councilwoman White offered the following:

**RESOLUTION TO APPROVE COMMITMENT TO
EMPLOYEE DISTRACTED DRIVER TRAINING**

WHEREAS, the Town of Batavia recognizes the dangers associated with distracted driving which often results in employee injuries to employees and others, damage to municipal property and property damage to others, and

WHEREAS, the Town of Batavia is committed to the safety of its employees, residents and the general public along with reducing the costs associated with automobile accidents such as higher insurance premiums, down time for equipment repairs, overtime pay, and reduction in services to residents; and

NOW, THEREFORE, BE IT

RESOLVED by the Town Board of the Town of Batavia, New York, that all municipal employees who drive a municipal vehicle or drive their own vehicle on behalf of the Town will be required to participate in Distracted Driving Training every two years; and be it further

RESOLVED, that the Town will use the free resources provided by its insurance carrier, New

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York Municipal Insurance Reciprocal (NYMIR), to provide this training.

Second by: Councilwoman Michalak
Ayes: White, Michalak, Underhill
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 89:

Deputy Supervisor Underhill offered the following:

THE MICHAEL NAPOLEONE MEMORIAL FOUNDATION
YOUNG EXPLOSIVES CORPORATION
FIREWORKS PERMIT

WHEREAS, the Michael Napoleone Memorial Foundation, P.O. Box 267, Batavia, New York wishes to sponsor a Fireworks Display by Young Explosives Corporation on May 6, 2017 at Terry Hills Golf Course, 5122 Clinton Street Road, Batavia, New York (application attached); and

WHEREAS, the Town of Batavia Fire Department has been notified of application made; and

WHEREAS, a permit from the Town of Batavia is required.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the granting of a Fireworks Permit to the Michael Napoleone Memorial Foundation for Saturday, May 6, 2017.

Second by: Councilwoman Michalak
Ayes: Underhill, Michalak, White
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 90:

Councilwoman Michalak offered the following:

WHEREAS, there is a need to bring broadband service to rural, more hard to serve areas; and

WHEREAS, the Town of Batavia is interested in collaborating with Genesee County to map an effective profile of unserved/underserved parts of Genesee County.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board is hereby in support and interested in collaborating with Genesee County to map an effective profile of unserved/underserved parts of Genesee County and to pursue a public/private partnership to apply for New York State and/or Federal Funding for high speed broadband services.

Second by: Councilwoman White

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Ayes: Michalak, White, Underhill
APPROVED by unanimous vote (3-0)

SUSPEND THE RULES-Motion Councilwoman Michalak, second Councilwoman White to suspend the rules to introduce additional resolutions.

Ayes: Michalak, White, Underhill
MOTION CARRIED by unanimous vote (3-0)

RESOLUTION NO. 91:

Councilwoman White offered the following:

ACCOUNTING SOFTWARE MAINTENANCE AGREEMENT
WILLIAMSON LAW BOOK COMPANY

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the annual renewal Accounting Software Maintenance Agreement between the Town of Batavia and Williamson Law Book Company at a cost of one thousand, eighteen dollars (\$1,018.00) for one (1) year, effective May 1, 2017 to April 30, 2018, a copy of which is annexed hereto and made a part of the minutes.

Second by: Councilwoman Michalak
Ayes: White, Michalak, Underhill
APPROVED by unanimous vote (3-0)

RESOLUTION NO. 92:

Deputy Supervisor Underhill offered the following:

GENESEE COUNTY EMERGENCY MANAGEMENT
HAZARDOUS MATERIALS TEAM
TRAINING OPERATION

WHEREAS, the New York State Department of Environmental Conservation, along with the Genesee County Office of Emergency Management Hazardous Materials Team are planning a training operation on the Tonawanda Creek on May 13, 2017 at 10:00 a.m.; and

WHEREAS, Genesee County Office of Emergency Management is requesting permission to access the creek via Kiwanis Park.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby grants permission to Genesee County Office of Emergency Management to access Tonawanda Creek via Kiwanis Park to conduct a training operation on the creek on May 13, 2017 with the NYSDEC.

Second by: Councilwoman White
Ayes: Underhill, White, Michalak

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APPROVED by unanimous vote (3-0)

RESOLUTION NO. 93:

Councilwoman Michalak offered the following:

**RESOLUTION CALLING A PUBLIC HEARING TO
SUBMIT A COMMUNITY DEVELOPMENT BLOCK GRANT TO
NEW YORK STATE OFFICE OF COMMUNITY RENEWAL**

WHEREAS, the Batavia Town Board wishes to assess the advisability of submitting a Community Development Block Grant (“CDBG”) application to the New York State Office of Community Renewal (the “OCR”) for funding to support the development of a truck parts and service facility to be located on State Street Road just south of the I-90 (the “Project”); and

WHEREAS, the Town is required to hold a public hearing to provide information to the public and to consider citizen comments regarding the CDBG program and the Project prior to submitting an application for CDBG funding;

NOW, THEREFORE BE IT

RESOLVED, that the Batavia Town Board hereby calls for a Public Hearing whereat all interested parties shall be heard; and be it further

RESOLVED, that the Public Hearing shall be held on May 17, 2017 at 7:00 PM at the Batavia Town Hall, located at 3833 West Main Street Road, Batavia, New York; and be it further

RESOLVED, that the Town Clerk is hereby directed to have published at least once in The Daily News at least seven (7) days before the date scheduled for the Public Hearing, the Public Hearing Notice that is attached hereto.

Second by: Councilwoman White

Ayes: Michalak, White, Underhill

APPROVED by unanimous vote (3-0)

**LEGAL NOTICE
NOTICE OF PUBLIC HEARING
TOWN OF BATAVIA, NY
OFFICE OF COMMUNITY RENEWAL
GRANT PROGRAM**

NOTICE IS HEREBY given that the Batavia Town Board will hold a public hearing on May 17, 2017 at 7:00 PM at the Batavia Town Hall located at 3833 West Main Street Road, Batavia, New York to discuss the community development, economic development, and housing needs of the Town of Batavia and the Town’s potential submission of an application to the New York State Office of Community Renewal for Community Development Block Grant funding to support the development of a truck parts

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and service facility to be located on State Street Road just south of the I-90 in the Town of Batavia. More detailed information regarding the project will be presented at the hearing. The hearing facilities are handicapped accessible. Written comments are invited and will be accepted until the time of the hearing upon delivery to the Batavia Town Clerk's Office at the address shown above.

Abstract No. 4-2017: Motion Councilwoman White, second Councilwoman Michalak to authorize the Supervisor to pay the following vouchers:

General	\$147,250.37
Highway	22,477.70
Sewer No. 1	2,776.77
Sewer No. 2	7,959.45
Water	246,556.23
Sewer Capacity	74,675.58
Townline Joint	328,998.42
Ellicott Trail	2,686.50
Total	\$833,381.02

Check numbers 19708 – 19790, 19793 SM – 1098-1102, ACH: \$33,069.84, Online: \$8,961.79

Ayes: White, Michalak, Underhill

MOTION CARRIED by unanimous vote (3-0)

DEPARTMENT REPORTS:

Supervisor's Report:

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

GAM Meeting is tomorrow evening at 7:00 P.M. at the Batavia Town Hall.

Southwest Water District- Received notice from USDA that they have obligated grant funding of \$500,000 for the Southwest Water District.

COMMUNICATIONS:

The Town Clerk reported on the following:

March Town Clerk monthly report collected a total of \$2,341.96, remitted \$2,082.25 to the Supervisor for the Local Share.

March Tax Collection- Collected a total of \$294,969.50. Remitted \$5,980.36 to the Supervisor for the penalties collected and the remainder to the Genesee County Treasurer.

Pharmaceutical Drop Off- On Saturday, April 29, 2017 from 10:00 a.m. to 2:00 p.m. the Batavia Police Department and Genesee County Sheriffs' Department will have collection sites set-up for "National Prescription Drug Take Back Day".

ADJOURNMENT:

Motion Councilwoman Michalak, second Councilwoman White to adjourn the Regular Town

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Board Meeting at 8:25 P.M.

Ayes: Michalak, White, Underhill

MOTION CARRIED by unanimous vote (3-0)

Respectfully submitted,

Teresa M. Morasco
Town Clerk