

MAY 18, 2016
REGULAR TOWN BOARD MEETING

Town Hall

7:00 P.M.

Patti Michalak, 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
10 Constituents

The Deputy Supervisor called the meeting to order at 7:04 P.M.

The Town Board reviewed the SEQR for Local Law 2 of 2016 –Zoning Map Amendment.

The Deputy Supervisor called the Public Hearing on Local Law 2 of 2016 to order at 7:07 P.M. Minutes of Public Hearing entered separately from Regular Town Board Minutes.

April 20, 2016 Public Hearing-Local Law 1 Zoning Text Amendment: Motion Councilwoman White, second Councilwoman Michalak to approve the minutes as written.

Ayes: White Michalak, Underhill

MOTION CARRIED by unanimous vote (3-0)

April 20, 2016 Public Hearing-Establishment of Southwest Water District: Motion Councilwoman Michalak, second Councilwoman White to approve the minutes as written.

Ayes: Michalak, White, Underhill

MOTION CARRIED by unanimous vote (3-0)

April 20, 2016 Regular Town Board Meeting: Motion Councilwoman Michalak, second Councilwoman White approve the minutes as written.

Ayes: Michalak, White, Underhill

MOTION CARRIED by unanimous vote (3-0)

SPEAKER:

Joseph Joyce addressed the Town Board on concerns with drainage issues. He would like culverts installed because there is an issue with water on the south side of School Street. About six weeks ago he was told by Town Officials in order to install culverts, a district would have to be formed with School, East and Read Roads. Mr. Joyce indicated that a number of years ago five culverts were installed on Read Road. He would like answers as to how these got installed without forming a drainage district.

RESOLUTION NO. 99:

Councilwoman White offered the following:

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RESOLUTION TO ADOPT A NEGATIVE DECLARATION

WHEREAS, in accordance with the State Environmental Quality Review Act (SEQR), the proposed Local Law No. 2 of 2016 to provide changes to a certain area of approximately 19.3 acres upon the Zoning Map of the Town of Batavia, New York, is a Type I Action; and

WHEREAS, the Batavia Town Board acting as Lead Agency has reviewed the SEQR Full Environmental Assessment Form; and

WHEREAS, it has been determined that the proposed amendments will not have an adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Batavia, New York, hereby directs the Supervisor to sign on Page 2 of 2 of Part 3 of the Full Environmental Assessment Form – “Determination of Significance – Type 1 and Unlisted Actions”, indicating that the proposed action will not result in any significant adverse environmental impacts, with regard to Local Law No. 2 of 2016, that makes a revision to the Zoning Map of the Town of Batavia, New York.

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

RESOLUTION NO. 100 TABLED:

RESOLUTION ADOPTING LOCAL LAW No. 2 of 2016

Councilwoman White made a motion to table resolution #100 entitled, “Resolution Adopting Local Law No. 2 of 2016”.

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

RESOLUTION NO. 101:

Councilwoman Michalak removed from table and offered the following:

**INTER-MUNICIPAL AGREEMENT BETWEEN THE
TOWN OF BATAVIA AND CITY OF BATAVIA
FOR DESIGN, CONSTRUCTION AND INSPECTION OF
THE ELLICOTT TRAIL PROJECT**

WHEREAS, the Town of Batavia in cooperation with the City of Batavia applied for and received funding through the New York State Transportation Enhancement Program (TEP) for the

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Ellicott Trail Project at a total project cost of \$1,366,000, of which the grant will cover \$1,024,5000 and the project requires a local match of \$ 341,500;and

WHEREAS, the proposed trail is a 4.6 mile multi-model pedestrian and bicycle trail which will connect commercial, industrial and residential areas in both the City and Town of Batavia ; and

WHEREAS, the Town and City of Batavia would share equally in the local math cost of \$341,500 for the design, construction and inspection of the trail; and

WHEREAS, an inter-municipal agreement which outlines the Town and City relationship required for sharing the costs and long term maintenance and operation of the trail is required ;and

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the inter-municipal agreement between the Town of Batavia and City of Batavia for the design, construction, inspection and long term maintenance and operation of the Ellicott Trail Project.

Second by: Councilwoman White

Ayes: Michalak, White, Underhill

APPROVED by unanimous vote (3-0)

RESOLUTION NO. 102:

Councilwoman White offered the following:

RESOLUTION TO APPROVE AN INTERMUNICIPAL AGREEMENT
WITH GENESEE COUNTY FOR WATER SERVICE
TO THE FIRE TRAINING CENTER

WHEREAS, Genesee County would like to make a connection to the Townline Water Project distribution system for the Genesee County Fire Training Center, and

WHEREAS, it would be cost effective for the County to have the Town of Batavia arrange for this construction, and

WHEREAS, the Town Attorney has drafted a proposed Intermunicipal Agreement that has been reviewed by the Town Engineer and the Genesee County Attorney.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that a proposed “Intermunicipal Agreement for Water Service for the Genesee County Fire Training Center”, a copy of which shall be made a part of the Town Board Minutes, is hereby approved and the Town Supervisor is hereby authorized and directed to execute this Agreement on behalf of the Town of Batavia.

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

**INTERMUNICIPAL AGREEMENT FOR WATER SERVICE
FOR THE GENESEE COUNTY FIRE TRAINING CENTER**

THIS AGREEMENT, made the _____ day of _____, 2016, by and between the **TOWN OF BATAVIA**, a municipality of the State of New York, with offices located at 3833 West Main Street Road, Batavia, New York 14020, (hereinafter “Batavia”); and the **COUNTY OF GENESEE**, a municipality of the State of New York, with offices located at 15 Main Street, Batavia, New York 14020, (hereinafter “County”).

WITNESSETH:

WHEREAS, pursuant to an Intermunicipal Agreement, Batavia has contracted with the Towns of Oakfield, Elba and Stafford, to engineer, design and construct a joint water distribution system referred to as the Townline Water Project, and

WHEREAS, as part of these responsibilities, Batavia has entered into a Contract with Sergi Construction, (hereinafter “Contractor”), to construct a portion of this system located within the Town of Batavia, and

WHEREAS, the County, on behalf of the Genesee County Fire Training Center, (hereinafter “Training Center”), would like to make a connection to the Townline Water Project distribution system, and

WHEREAS, it would be cost effective for the County to have Batavia arrange for this construction by entering into a Change Order with the aforesaid Contractor because this work would be associated with the Townline Water Project, and

WHEREAS, the necessary work involves the connection to the existing eight inch valve on State Street Extension, and then installing approximately 920 linear feet of eight inch water main from this connection to the Training Center, as well as installing two fire hydrants and appurtenances, (hereinafter “facilities work”).

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

1. Batavia, on behalf of the County, shall execute a Change Order with the Contractor to perform the facilities work, as part of the Townline Water Project.
2. Batavia, as necessary, may advance part or all of the sum of \$46,480.00 to the Contractor to perform the facilities work.

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3. Upon completion of the facilities work to the satisfaction of both Batavia and the County, Batavia shall invoice the County for the sum of \$46,480.00, which shall be paid by the County to Batavia within thirty (30) days after the date of the invoice.

4. After acceptance of the facilities work, the County shall dedicate the facilities to the Town.

5. After dedication of the facilities, Batavia shall be solely responsible for any operation, maintenance or improvements regarding the same.

6. The County will grant a Water Easement to Batavia to allow Batavia to operate, maintain or improve the facilities.

7. The Training Center building shall be metered and payment from the County to Batavia shall be made pursuant to the current terms and rates of the Batavia Water Ordinance; as well as any amendments thereto.

8. Water used by or on behalf of the County from unmetered water hydrants for fire training purposes, or otherwise, shall be paid by the County to Batavia upon an estimated basis.

9. There are no other Agreements or understandings, either oral or written, by and between the parties affecting this Agreement.

10. No changes, additions or deletions of any portion of this Agreement shall be valid and binding upon the parties hereto, unless the same is approved in writing by both parties.

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

12. 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.

13. This Agreement and any transactions between the parties hereunder shall be governed by, construed and interpreted in accordance with the laws of the State of New York.

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

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

TOWN OF BATAVIA

COUNTY OF GENESEE

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By: Gregory H. Post, Supervisor

By: Raymond F. Cianfrini, Chairman

State of New York }
County of Genesee }ss:

On this _____ day of _____, 2016, 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 _____, 2016, before me, the undersigned, personally appeared Raymond F. Cianfrini, 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. 103:

Deputy Supervisor Underhill offered the following:

**BORROWING AND GENERAL
FINANCIAL ADVISORY SERVICES AGREEMENT
MUNICIPAL SOLUTIONS, INCORPORATED**

WHEREAS, on May 21, 2014 the Town of Batavia entered into an agreement with Municipal Solutions, Incorporated for Bond Anticipation Note Borrowing, Long-term Serial Bond Borrowing and General Financial Services; and

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WHEREAS, the agreement is due for review and renewal; and

WHEREAS, to continue this service Municipal Solutions, Incorporated submitted a proposal of services agreement (proposal attached).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement between the Town of Batavia and Municipal Solutions, Incorporated for Bond Anticipation Note Borrowing, Long-term Serial Bond Borrowing and General Financial Services, a copy of which is annexed hereto and made a part of the minutes. Said agreement is for a period of two years.

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

RESOLUTION NO. 104:

Councilwoman Michalak offered the following:

DISCLOSURE FILINGS
FINANCIAL ADVISORY SERVICES AGREEMENT
MUNICIPAL SOLUTIONS, INCORPORATED

WHEREAS, the Town of Batavia issued certain bonds and notes with an Official Statement; and

WHEREAS, it is agreed to disclose information on a periodic and continuing basis to the investing public for the life of the issue, pursuant to the provisions of Securities and Exchange Commission (SEC) Rule 15c2-12; and

WHEREAS, Municipal Solutions, Incorporated submitted a proposal of services agreement to assist the Town with continuing disclosure filings and regulations pursuant to the Rule (proposal attached).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement between the Town of Batavia and Municipal Solutions, Incorporated for assistance with disclosure filings and regulations pursuant to the Rule, a copy of which is annexed hereto and made a part of the minutes. Said agreement is for a period of two years.

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

RESOLUTION NO. 105:

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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 nine hundred, ninety-eight dollars (\$998.00) for one (1) year, effective May 1, 2016 to April 30, 2017, 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. 106:

Deputy Supervisor Underhill offered the following:

**SECOND AMENDED
TOWNS OF BATAVIA AND ALEXANDER
ASSESSMENT SERVICES AGREEMENT**

WHEREAS, the Town of Alexander, (hereinafter “Alexander”), and the Town of Batavia, (hereinafter “Batavia”), entered into a contract entitled “Towns of Batavia and Alexander Assessment Services Agreement”, dated August 1, 2012, and

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

WHEREAS, Batavia has determined that it continues to have the ability to provide these services by making available the Batavia Town Assessor and any other support personnel needed, and

WHEREAS, the Batavia Town Assessor and any other personnel employed by Batavia will be and will continue to be during the term of this Agreement fully qualified as required by law to provide assessment services.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that a proposed “First Amended Towns of Batavia and Alexander Assessment Services Agreement”, a copy of which shall be 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.

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

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SECOND AMENDED
TOWNS OF BATAVIA AND ALEXANDER
ASSESSMENT SERVICES AGREEMENT

THIS AGREEMENT made the _____ day of _____, 2016, by and between the **TOWN OF ALEXANDER**, a municipal corporation organized and existing under the Laws of the State of New York, having its principal office located at 3350 Church Street, Alexander, New York 14005, (hereinafter referred to as “Alexander”), 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, Alexander and Batavia are authorized to enter into an intermunicipal 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 Alexander.

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

1. Batavia agrees to provide assessment services to Alexander 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 Alexander 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.

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

5. Batavia shall indemnify and hold Alexander harmless from any claims made against Alexander 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. Alexander 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 Alexander, 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.

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

7. The terms and conditions of this Agreement shall begin on August 1, 2016, and shall end on July 31, 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 May 1, 2018, Alexander and Batavia enter into an additional Agreement to renew or extend this contractual arrangement upon mutually agreed upon terms and conditions.

8. In consideration and for compensation for the services set forth herein, Alexander shall pay to Batavia the total sum of \$15,914.00 for the first year of this Agreement. This sum shall be paid in two installments of \$7,957.00 on or before September 1, 2016, and \$7,957.00 on or before March 1, 2017. Alexander will pay to Batavia the total sum of \$15,914.00 for the second year of this Agreement to be paid in two installments of \$7,957.00 on or before September 1, 2017, and \$7,957.00 on or before March 1, 2018.

9. 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 Alexander, at its sole option and discretion, may terminate this Agreement with at least ninety (90) days prior written notice to Batavia and thereafter, this Agreement shall be null and void.

10. 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.

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TOWN OF BATAVIA

By: Gregory H. Post, Town Supervisor

TOWN OF ALEXANDER

By: Joseph Higley, Town Supervisor

State of New York }
County of Genesee }ss.

On this _____ day of _____, 2016, 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 _____, 2016, before me, the undersigned, 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/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.

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Notary Public

RESOLUTION NO. 107:

Councilwoman Michalak offered the following:

**GENERATOR MAINTENANCE AGREEMENT
KEY POWER SYSTEMS, INCORPORATED**

WHEREAS, in May 2012 the Town of Batavia entered into an agreement with Key Power Systems, Inc. to service the Town's Emergency Generators; and

WHEREAS, the agreement is due to expire on May 31, 2016; and

WHEREAS, Key Power Systems, Inc. submitted an itemized preventative maintenance proposal agreements totaling \$5,400.00 to maintain twelve generators on an annual basis (agreement attached).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby accepts Key Power Systems, Inc. proposals to perform Prevention Maintenance for twelve emergency generators; and be it

FURTHER, RESOLVED the Batavia Town Board hereby authorizes the Supervisor to execute the agreements, effective June 1, 2016 and expiring May 31, 2017; and be it

FURTHER RESOLVED the expenditure will be appropriated from the corresponding water and sewer contractual line items.

Second by: Councilwoman White

Ayes: Michalak, White, Underhill

APPROVED by unanimous vote (3-0)

RESOLUTION NO. 108:

Councilwoman White offered the following:

**RESOLUTION OF FINDINGS FOR APPLICATION TO STATE COMPTROLLER
FOR THE BATAVIA SOUTHWEST WATER DISTRICT**

WHEREAS, the Town Board of the Town of Batavia, adopted a Resolution on April 20, 2016, establishing a Water District on portions of Brown Road, Halstead Road, Wilkinson Road, Lear Road and Upton Road in the Town of Batavia, and

WHEREAS, this Resolution was subject to approval of the Office of the State Comptroller, Department of Audit and Control, and

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WHEREAS, said Resolution authorized the Town Supervisor, assisted by the Town Attorney and Town Bond Counsel, to prepare the necessary application to the State Comptroller.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Batavia as follows:

- (1) That the annexed application was prepared at the direction of the Batavia Town Board.
- (2) The Town Board has reviewed this application and believes the contents of the application to be accurate.
- (3) The Town Board has determined that that Batavia Southwest Water District, for which permission is sought, is in the public interest and will not constitute an undue burden on the properties which will bear the cost thereof.
- (4) The cost of the proposed improvements is to be assessed in whole or in part against the benefited area, and the Town Board has determined that all real property to be so assessed will be benefited by the proposed improvements and no benefited property has been excluded.

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

Abstract No. 5-2016: Motion Councilwoman Michalak, second Councilwoman White to authorize the Supervisor to pay the following vouchers:

General	\$69,005.78
Highway	24,124.92
Sewer No. 1	31,207.14
Sewer No. 2	50,476.24
Water	15,595.39
West Main Sewer	1,622.25
Pratt	21,753.40
Townline	3,005.56
Sewer Capacity Purchase	4,142.69
Southwest Water	2,324.00
Ellicott Trail	39.00
Townline Joint	17,520.97
Total	\$240,817.34

Check numbers 16874 – 16877, 16879- 16939, M: 1075-1078, ACH: \$4,812.50, Online: \$8,881.29
Ayes: Michalak, White, Underhill
MOTION CARRIED by unanimous vote (3-0)

DEPARTMENT REPORTS:

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Supervisor's Report:

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

GAM Meeting is tomorrow evening hosted by the Town of Darien at 7:00 P.M. at the Darien Town Hall.

COMMUNICATIONS:

The Town Clerk reported on the following:

April Town Clerk monthly report collected a total of \$3,357.23, remitted \$2,749.83 to the Supervisor for the Local Share.

ADJOURNMENT:

Motion Councilwoman Michalak, second Councilwoman White to adjourn the Regular Town Board Meeting at 7:45 P.M.

Ayes: Michalak, White, Underhill

MOTION CARRIED by unanimous vote (3-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk