

**MARCH 21, 2018  
REGULAR TOWN BOARD MEETING**

**Town Hall**

**7:00 P.M.**

Greg Post, Supervisor led the pledge to the flag.

**Roll Call**

**Present:** Supervisor Post  
Deputy Supervisor Underhill  
Councilwoman White  
Councilwoman Michalak  
Councilman Zambito

**Others**

**Present:** Town Clerk Morasco

The Supervisor called the meeting to order at 7:02 P.M.

**February 21, 2018 Regular Town Board Meeting:** Motion Deputy Supervisor Underhill, second Councilman Zambito to approve the minutes as written.

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

**MOTION CARRIED by unanimous vote (5-0)**

**RESOLUTION NO. 63:**

Councilwoman White offered the following:

**TRAINING WORKSHOP**

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

Andrew Young- CE Online 7 Class Trainings, Code of Ethics, Working with Real Estate Investors, Fair Housing, Residential Property, The Environmental Movement, Commercial Building and Value, was February 13 – 27, 2018. Total of 22.5 hours. There was not cost for this training.

Sarah Sauka and Melissa Mason- eJustice Portal and TAC Training April 4, 2018 at the Livingston Emergency Operations and Training Center. There is no cost for this training.

Jason Armbrewster- Leadership Genesee Diversity Day March 28, 2018. There is no cost for this.

Jason Armbrewster- NYS Specific Land Surveyors Exam Review Workshop April 6-7, 2018 in Malta, New York. The cost for training, meals, and lodging is approximately \$689.00. A Town vehicle will be used.

Jason Armbrewster-2018 Smart Management for Small Communities Conference April 24 – 26, 2018 in Blue Mountain Lake, New York. The cost for the conference is \$325.00 which includes lodging

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and meals.

Sarah Sauka and Melissa Mason- 25<sup>th</sup> Annual Local Government Conference May 9, 2018 at Houghton College. The cost for this conference is \$50.00 each.

Steve Mountain, Hiedi Libroch, Marcy Crandall, & Greg Post-Association of Towns annual Town Finance School May 10-11, 2018 in Ellicottville, New York. The cost for this training is \$200.00 each. A Town vehicle will be used.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 64:**

Deputy Supervisor Underhill offered the following:

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

**WHEREAS**, the Town of Batavia and the Town of LeRoy entered into a Code Enforcement Officer Agreement in December 2006; and

**WHEREAS**, the agreement addresses the need for each party to have its Codes enforced during periods when its Enforcement Officers are unavailable due to illness, vacation and other absences.

**NOW, THEREFORE, BE IT**

**RESOLVED**, pursuant to Article 5-G of the General Municipal Law, the Batavia Town Board wishes to re-enter into an agreement between the Town of Batavia and the Town of LeRoy for Code Enforcement coverage for a period of six months, effective date of January 1, 2018, 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 Supervisor to execute the aforementioned agreement.

**Second by:** Councilwoman Michalak

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

**APPROVED by unanimous vote (5-0)**

**CODE ENFORCEMENT  
AGREEMENT**

**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 2018 by and between the **Town of LeRoy**, a municipal corporation with offices at 48 Main Street, LeRoy, NY 14482 (“LeRoy”), and the **Town of Batavia**, a municipal corporation with office at 3833 West Main Road, Batavia, NY 14020

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("Batavia"),

**WHEREAS**, both parties employ Code Enforcement Officers to enforce Zoning Code, Fire and Building Codes and other various codes and regulations, and

**WHEREAS**, each party has identified a need to have its Codes enforced during periods when its Enforcement Officers are unavailable due to illness, vacation and other absences,

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

**First:** That LeRoy shall appoint the Code Enforcement Officer of the Town of Batavia as its Deputy Code Enforcement Officer.

**Second:** That Batavia shall appoint the Code Enforcement Officer of the Town of LeRoy as one of its Deputy Code Enforcement Officers.

**Third:** That each party shall establish an hourly rate at which it shall be reimbursed for such times as its Code Enforcement Officer is performing duties in the other Town and the Town receiving such services shall and hereby does agree to pay for such services at said rate. Each party shall also reimburse the other for any expenses paid by the other, including mileage for vehicle use by the officer while in the other party's Town, or reimburse the officer directly for the use of his personal vehicle in those instances when he uses it for either party's purposes with prior authorization.

**Fourth:** The rate shall include the hourly cost to the Town for the Code Enforcement Officer's wages, health insurance, retirement fund contribution, and any other fringe benefits, and shall not exceed such hourly costs.

**Fifth:** Each Town Supervisor shall notify the other Town Supervisor as soon as it becomes known that the services of the Deputy will be necessary, but in no event shall such notice be given less than 72 hours prior to the time when the Deputy is needed. In the event that one of the officers becomes injured, ill or otherwise suddenly incapacitated, the Town supplying the Deputy shall do so as soon as practical, but shall not be required to do so any sooner than 72 hours after notification. It is further understood that each municipality may have or currently has similar agreements with other municipalities and, therefore it is understood that the Deputy may not be available due to services being provided to those other municipalities. In this event the Deputy will be provided on a first come first serve basis.

**Sixth:** Each Town shall indemnify the other against any negligent act and shall name the other as an additional insured on any and all liability insurance policies. Each town shall be responsible for the acts of the deputy enforcement officer when working in its Town and the other shall not be so responsible.

**Seventh:** This agreement shall take effect upon the adoption of resolutions by Town Board agreeing hereto and the authorizing of the respective Supervisors to execute this Agreement and shall be in effect January 1, 2018 through June 30, 2018.

**Eighth:** This agreement may be terminated by either party by giving the other party ninety (90) days notice of intention to terminate and shall become effective on the first day of the month following the expiration of the ninety (90) day period.

**Ninth:** All notices shall be sent to the respective Towns at their addresses as set forth

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above.

**IN WITNESS WHEREOF**, the Towns have caused this Agreement to be signed by the Supervisors and the Town Seal attached on the date first set forth above.

**TOWN OF LEROY**

**TOWN OF BATAVIA**

\_\_\_\_\_  
**Stephen Barbeau, Supervisor**

\_\_\_\_\_  
**Gregory H. Post, Supervisor**

**STATE OF NEW YORK)**  
**COUNTY OF GENESEE) SS.**

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me, the undersigned, a Notary Public in and for said State, personally appeared **Stephen Barbeau**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**STATE OF NEW YORK)**  
**COUNTY OF GENESEE) SS.**

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me, the undersigned, a Notary Public in and for said State, personally appeared **Gregory H. Post**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**RESOLUTION NO. 65:**

Supervisor Post offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW NO. 1 of 2018**  
**AND TO SCHEDULE A PUBLIC HEARING**

**WHEREAS**, Town of Batavia, the Town Board of the Town of Batavia, New York desires to consider adopting legislation to ‘Establish Law Regulating Peddlers and Solicitors within the Town of Batavia and to Repeal Existing Legislation’, also known as “Local Law No. 1 of 2018 “A Local Law Regulating and Licensing Peddlers and Solicitors with in the Town of Batavia”.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New

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York that proposed Local Law No. 1 of 2018 entitled " A Local Law Regulating and Licensing Peddlers and Solicitors with in the Town of Batavia ", which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, be and the same hereby is introduced for adoption; and

**BE IT FURTHER RESOLVED** that said proposed Local Law be laid upon the desks of the members of this Town Board on this date and remain there and a copy thereof be kept on file in the office of the Town Clerk until April 18, 2018, and that a public hearing be held before this Town Board on the 18<sup>th</sup> day of April, 2018 at 7:00 p.m. at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, on the advisability of enacting said proposed Local Law; and

**BE IT FURTHER RESOLVED** that a copy of said proposed Local Law be mailed to each member of the Town Board not in attendance at this meeting in a postpaid, properly addressed and securely closed envelope in a post box within the Town of Batavia, New York not less than ten (10) calendar days, exclusive of Sunday, prior to the date of said public hearing; and

**BE IT FURTHER RESOLVED** that the Town Clerk shall cause notice of said public hearing to be published once in The Daily News at least five (5) days prior to the date of said public hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk's Office.

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

Local Law Filing New York State Department of State  
41 State Street, Albany, NY 12231  
\_\_\_\_\_  
(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County \_\_\_\_\_  
City of Batavia, Genesee County, New York  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Local Law No. 1 of the year 2018.

A local law known as A Local Law Regulating and Licensing Peddlers and Solicitors within the Town of Batavia

(Insert Title)

Be it enacted by the \_\_\_\_\_ Town Board \_\_\_\_\_ of the  
(Name of Legislative Body)

County \_\_\_\_\_  
City of Batavia, Genesee County, New York as follows:  
Town \_\_\_\_\_  
Village \_\_\_\_\_

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ARTICLE I: **ENACTMENT, AUTHORIZATION, PURPOSE, AND TEXT OF LAW**

Section 1. Title.

The title of this chapter shall be "A Local Law Regulating and Licensing Peddlers and Solicitors within the Town of Batavia."

Section 2. Purpose and Intent.

The Town Board finds that high pressured, and misleading, fraudulent, and threatening activities have been associated with hawking, peddling and soliciting activities in the Town of Batavia, and that it is the purpose and intent of this law to protect the health, safety and general welfare of the residents of the Town by regulating itinerant merchants.

Section 3. Definitions.

Terms used in this chapter shall have the following meanings:

PERSON

Any individual, firm, partnership, corporation, unincorporated association and any principal, agent or employee thereof and all other entities of any kind.

ESTABLISHED PLACE OF BUSINESS

A building or store in which the person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits for during regular business hours.

SOLICITOR

Any person who goes from place to place, or house to house, or who stands in any roadway or public place taking or offering to take orders for goods, wares or merchandise, or for services to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

VENDOR, HAWKER OR PEDDLER

Any person, either principal or agent, who, from any vehicle or any public road or public place, or by going from house to house or place of business to place of business, on foot or from any animal or vehicle, sells or barter, offers for sale or barter, or carries or exposes for sale or barter any goods, wares or merchandise, including magazines and other publications, except as hereinafter exempted.

Section 4. License required.

It shall be unlawful for any person, unless exempt from the provisions of this chapter, within the limits of the Town of Batavia, to act as a vendor, hawker, peddler or solicitor without first having obtained and paid for, and having in force and effect, a license therefor.

Section 5. Exemptions.

A. This chapter shall not be held to apply to any sales conducted pursuant to statute or by order of any court; to any person

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selling personal property at wholesale to dealers in such articles; to farmers and truck gardeners who themselves or through their employers vend, sell or dispose of products of their own farms and gardens; to dealers in milk, baked goods, heating oil and daily newspapers; to persons having an established place of business within the County of Genesee or their employees soliciting orders from customers and delivering the same; to any honorably discharged member of the armed forces who has procured a license issued by the Genesee County Clerk as provided by the General Business Law of the State of New York; or to persons soliciting or collecting for any bona fide charitable organization, service, school or youth groups. This chapter shall also not apply so as to unlawfully interfere with interstate commerce. Nonprofit organizations and persons working for said organizations shall also be exempt.

Section 6. Application for license.

Any person desiring to procure a license under this chapter shall submit to the Town Clerk a written application in duplicate, to be supplied by the Town Clerk, stating, under oath, the following information:

- A. Name of applicant;
- B. Permanent home address;
- C. Name and address of firm represented or sponsoring entity, if any;
- D. Length of time for which the license is requested;
- E. Social Security number;
- F. Date of birth;
- G. Physical description of the applicant;
- H. The license number and kind of vehicle to be used by the applicant in carrying on the business for which the license is desired;
- I. The kind of goods, wares and merchandise desired to be sold or the kind of service to be performed;
- J. The method of distribution, if applicable;
- K. For the firm represented, if any, names and addresses of all partners, if a partnership, and the names and addresses of the principal officers, if a corporation, and the name and address of a natural person upon whom a legal notice of process may be served within the State of New York;
- L. All felonies or misdemeanors of which the applicant has been convicted together with the disposition date and court having jurisdiction thereof;
- M. Two photographs of the applicant, full face on a white background, two inches by two inches in size, taken within 30 days prior to the date of filing of the application;
- N. Law enforcement background check from the County in which the applicant resides, as well a law enforcement background check from Genesee County. Background checks shall have been completed within the 30 days prior to the day of filing of the application.
- O. A certificate from the Genesee County Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant, if any, have been examined and approved.

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Section 7. Employees/Agents of Principals.

A separate license shall be required for:

- A. Each person, firm or entity represented or sponsoring the Hawking, Peddling or Soliciting activity
- B. Each person engaging in the activity in the Town and each person operating a vehicle in support of such activity.

Section 8. Solicitor's bond.

An applicant for a license as a solicitor who demands, accepts or receives payment or deposit of money in advance of final delivery shall file with the Batavia Town Clerk a cash deposit or a bond executed by a surety company or insurance company licensed to do business within the State of New York in the sum of \$1,000, conditioned upon making a final delivery of the goods, wares or merchandise ordered or services to be performed in accordance with the terms of any order obtained or, failing therein, that the advance payment on such order be refunded. Any person aggrieved by the action of any licensed solicitor shall have the right by action on the bond for the recovery of money or damages, or both. The bond shall remain in full force and effect, and, in case of cash deposit, such deposit shall be retained by the Batavia Town Clerk for a period of three months after the expiration of any such license, unless sooner released by the Batavia Town Board for good cause shown.

Section 9. Issuance of license; conditions.

A. The Town Clerk, with assistance from such law enforcement agencies as she shall deem necessary, shall investigate all applications and shall thereafter, with due dispatch, issue or deny such license to the applicant. All licenses shall become effective from the date thereof and shall continue in force for the term specified therein but shall not be transferable. No license shall be issued for a longer term than one year from the date thereof.

B. If, after investigation of any application, the Town Clerk shall deny the same, she shall endorse on such application such disapproval and the reason for the same, and the Town Clerk shall forthwith notify the applicant in writing of such denial and of his right to appeal as hereinafter set forth. A license may be refused by the Town Clerk if the applicant shall have been convicted of a misdemeanor or felony which in the judgment of the Town Clerk renders the applicant unfit or undesirable to carry on the purpose for which the license is requested. In addition, the Town Clerk may also refuse a license to any person who in her judgment shall be an undesirable person or incapable of properly conducting the trade or business for which the license has been requested.

C. Any licensee aggrieved by any action or determination of the Town Clerk hereunder may appeal to the Batavia Town Board for the issuance of a license within 14 days after notice of the action or determination complained of has been mailed to his last known address by filing a written statement setting forth fully the grounds for appeal. The Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing shall be mailed to the applicant's last known address at least five days prior to the date set for the hearing. The decision and order of the Town Board on such appeal shall be final and conclusive.

D. After a public hearing thereon at which the licensee shall have an opportunity to be heard, the Town Board may revoke any license issued under authority of this chapter to any applicant whom the Town Board shall determine to be an undesirable person or incapable of properly conducting the trade or business previously licensed.

E. A license shall not be assignable.

F. The holder of a license shall not permit it to be used by any other person.

G. Whenever a license is lost or destroyed on the part of the holder or his agent or employee, a duplicate in lieu thereof, under the original application and bond, may be issued by the Town Clerk upon the filing with her by the licensee of an affidavit,

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under oath, setting forth the circumstances of the loss and what, if any, search has been made for its recovery.

H. All licenses shall be issued from a properly bound book with proper reference stubs for that purpose, numbered in that order in which they are issued, and shall state clearly the kind of vehicle to be used, the kind of goods, wares and merchandise to be sold or service to be rendered, the number of each license, the date of issuance and expiration of the license, fee paid and the name and address of the licensee.

I. Such license shall include the right to use only one vehicle in carrying on the business for which the person is licensed, unless such license shall otherwise provide.

J. No license shall be granted to a person under 18 years of age.

K. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand.

Section 10. License fees.

The license fee to hawkers, peddlers, or solicitors shall be \$200 per year, or such other fee as shall be established by the Town Board by resolution from time to time.

Section 11. Restrictions.

A licensed hawker, peddler or solicitor shall not:

- A. Enter upon private property for the purpose of peddling or soliciting before the hour of 9:00 a.m. Monday through Saturday, nor after the earlier of (1) 1/2 hour before sunset Monday through Saturday, or (2) the hour of 7:00 p.m. Monday through Saturday. No solicitation shall be permitted on Sundays or holidays.
- B. Ring the bell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words: "No Peddlers," "No Solicitors," "No Agents," or other wording, the purpose of which purports to prohibit peddling or soliciting on the premises. No peddler or solicitor shall peddle, vend or sell his or her goods or wares within 200 feet of any place occupied exclusively as a public or private school or for school purposes, nor shall he or she permit his or her car, wagon or vehicle to stand on any public highway within said distance of such school property.
- C. Falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale. No person shall, by any trick or device, or by any false representation, obtain or attempt to obtain admission to the house, garage or barn of any person, firm or corporation in the Town of Batavia.
- D. Blow a horn, ring a bell or use any other noisy device to attract attention to his wares, or shout or cry out his wares.
- E. Stand or permit the vehicle used by him to stand in one place in any public place or street for more than 10 minutes, or in front of any premises for any time if the owner or any lessee of the premises objects.
- F. Permit any vehicle used by him to stop or remain on any crosswalk
- G. Create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

Section 12. Orders where money is paid in advance.

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All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing made in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit is paid to the solicitor.

Section 13. Penalties for offenses.

Any person, firm or entity who, individually or by his clerk, agent, servant or employee, shall act as a peddler, hawker or solicitor, as herein defined, without a license, or who shall violate any of the provisions of this chapter, or who shall continue to act as a peddler, hawker or solicitor subsequent to the revocation of his license, shall be deemed to have committed a violation pursuant to the Penal Law of the State of New York and, upon conviction, shall be punished by a fine not exceeding \$250 or by imprisonment for a period of not more than 15 days, or both. Each day on which such violation shall continue shall constitute a separate offense. This chapter may also be enforced by injunction.

Section 14. Signs.

Appropriate signs, as the Town Board of the Town of Batavia shall deem necessary, shall be erected by the Highway Department of the Town of Batavia, at such places as the Town Board directs, within the Town of Batavia, advising of the existence of this chapter.

ARTICLE II:                    **REPEAL OF INCONSISTENT REGULATIONS, EFFECTIVE DATE, AND SEVERABILITY**

Section 1:                    Repeal of Chapter 173 of the Code

Existing Chapter 173 of the Code of the Town of Batavia, entitled Peddling and Soliciting, is hereby repealed in its entirety.

Section 2:                    Effective Date

This local law shall take effect immediately upon filing with the Department of State.

Section 3:                    Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No.   1   of 2018, of the (~~County~~) (~~City~~) (Town) (~~Village~~) of Batavia, New York was duly passed by the Town Board on \_\_\_\_\_, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

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I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the ~~(County)~~ (City) (Town) (Village) \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved) (not disapproved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 2006, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the ~~(County)~~ (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved) (not disapproved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the ~~(County)~~ (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved) (~~not disapproved~~) (~~repassed after disapproval~~) by the \_\_\_\_\_ on 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1\_\_, above.

(SEAL)

\_\_\_\_\_  
Teresa M. Morasco

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Town Clerk, Town of Batavia

Date: \_\_\_\_\_, 2018

**Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF GENESEE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

\_\_\_\_\_  
Andrew W. Meier  
Town Attorney  
~~County~~  
~~City~~ of Batavia  
Town  
~~Village~~

Date: \_\_\_\_\_

**RESOLUTION NO. 66:**

Councilwoman Michalak offered the following:

**RENEW ANNUAL SONICWALL SUBSCRIPTION  
HURRICANE TECHNOLOGIES, INCORPORATED**

**WHEREAS**, the current SonicWall Subscription expires March 30, 2018; and  
**WHEREAS**, the cost to renew the SonicWall Subscription for three (3) years is \$1,110.00  
(quote attached).

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes renewing the SonicWall Subscription through Hurricane Technologies, Incorporated at a cost of \$1,110.00 for a three (3) year subscription; and be it further

**RESOLVED**, the Supervisor is hereby authorized to execute the acceptance of proposal, a copy of which is annexed hereto and made part of the Town Board Minutes; and be it further

**RESOLVED**, the expenditure will be appropriated from line item A1680.402.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 67:**

Councilman Zambito offered the following:

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**RESOLUTION ACKNOWLEDGING THAT THE REQUIRED AUDIT OF THE COURT  
RECORDS AND DOCKETS WAS CONDUCTED**

**WHEREAS**, Section 2019-a of the Uniform Justice Court Act requires that Town Justices annually provide their court records and dockets to their respective Town Auditing Board, and that such records be audited and that fact be entered into the minutes of the Board's proceedings; and

**WHEREAS**, an audit was conducted of the Town Justices records and dockets by Freed, Maxick & Battaglia, P.C.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby acknowledges that the required audit of the Court Records and Dockets was conducted and hereby directs the Supervisor to forward a copy of the auditor's report along with a copy of this resolution to Joan Casazza, Internal Control Liaison, New York State Office of Court Administration, 2500 Pond View, Suite LL01, Castleton-on-Hudson, New York 12033.

**Second by:** Deputy Supervisor Underhill

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 68:**

Councilwoman White offered the following:

**MITEL/INTER-TEL 5000 TELECOMMUNICATION SYSTEM  
SOFTWARE ASSURANCE PACKAGE**

**WHEREAS**, Rel-Comm, Inc. installed the Mitel CS 5000 telecommunications system upgrade in the Town Hall and Highway Facility in 2009, which also included enrollment in the Software Assurance Program; and

**WHEREAS**, the Software Assurance Coverage expires May 16, 2018; and

**WHEREAS**, Software Assurance coverage is required for technical support and/or upgrades. The cost for one (1) year coverage is \$360.00 (proposal quote attached).

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board authorizes a one (1) year Software Assurance Coverage with RelComm, Incorporated at a cost of \$360.00 for the Mitel 5000 Telecommunication System; and be it

**FURTHER RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the proposal.

**Second by:** Deputy Supervisor Underhill

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

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**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 69:**

Deputy Supervisor Underhill offered the following:

**AUTHORIZING BUDGET TRANSFERS FOR 2017**

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

**General Fund:**

<b>From:</b>		<b>To:</b>	
A1620.200	Buildings - Equipment	\$ 12,986.00	A9010.800 Employee Benefits - Retirement

**Second by:** Councilwoman White

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 70:**

Supervisor Post offered the following:

**RESOLUTION TO HIRE PART-TIME  
REPRODUCTION SERVICES OPERATOR**

**WHEREAS**, the Town of Batavia created Reproduction Services Operator positions at the December 20, 2017 meeting; and

**WHEREAS**, applications were accepted and reviewed for this position; and

**WHEREAS**, Sherry Tacy satisfies the requirements and qualifications of the position of Reproduction Services Operator.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes the hiring of Sherry Tacy as part-time Reproduction Services Operator at a salary of fourteen dollars per hour (\$14.00 /hour) not to exceed 19 ½ hours per week with a start date on or after April 2, 2018; and be it

**FURTHER RESOLVED**, as per the Town of Batavia policy, Ms. Tacy is subject to a physical, background and driver's license check and drug and alcohol testing; and be it

**FURTHER RESOLVED**, the expense will be expended from line item A1411.101; and be it

**FURTHER RESOLVED**, there is a six month probationary period for this position, at which time an evaluation of performance will be accessed for an increase in pay or dismissal of duties.

**MARCH 21, 2018**  
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**Second by:** Councilwoman Michalak  
**Ayes:** Post, Michalak, Zambito, White, Underhill  
**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 71:**

Councilwoman Michalak offered the following:

**SUMMER SEASONAL EMPLOYEE**  
**FOR HIGHWAY DEPARTMENT**

**WHEREAS**, the Highway Superintendent would like to hire a seasonal employee to assist the Highway Departments for roadside mowing and to assist the Highway Department with various tasks. The seasonal employee would be hired from April 1, 2018 thru November 1, 2018; and

**WHEREAS**, the 2018 Town Budget reflects appropriations to hire one seasonal employee for the Highway Department.

**NOW, THEREFORE, BE**

**RESOLVED**, the Batavia Town Board hereby authorizes the Highway Superintendent to hire Aaron Swable as a seasonal employee for up to 40 hours per week from April 1, 2018 thru November 1, 2018 at an hourly rate of \$21.00 for the Highway Department, and be it

**FURTHER RESOLVED**, as per the Town of Batavia policy, Mr. Swable is subject to a physical, background and driver's license check and drug and alcohol testing; and be it

**FURTHER RESOLVED**, the expenditure will be appropriated from line items DA5140.100, DA5148.100, A8164.101, A8165.101.

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

**RESOLUTION NO. 72:**

Councilman Zambito offered the following:

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

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

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

**MARCH 21, 2018**  
**REGULAR TOWN BOARD MEETING**

**NOW, THEREFORE, BE IT**

**RESOLVED**, pursuant to Article 5-G of the General Municipal Law, the Batavia Town Board wishes to enter into a Code Enforcement Officer Fourth Amended Agreement between the Town of Batavia and the Village of Alexander for Code Enforcement services, 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 Supervisor to execute the aforementioned agreement.

**Second by:** Councilwoman Michalak

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

**APPROVED by unanimous vote (5-0)**

**FOURTH AMENDED**

**CODE ENFORCEMENT**

**AGREEMENT**

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

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

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

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

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

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

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

**Second:** In consideration for compensation for the services set forth herein, Alexander shall pay Batavia \$4,429.00 per year of this agreement. The sum shall be paid during the 2018 budget

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year to provide services for the year of 2018.

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

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

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

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

**Seventh:** This agreement shall become effective on April 1, 2018 and expire on March 31, 2019 with an option for either municipality to terminate this agreement upon a ninety (90) day written notice to the other municipality.

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

**IN WITNESS WHEREOF**, the Towns have caused this Agreement to be signed by the Supervisors and the Town Seal attached on the date first set forth above.

**Village of Alexander**

**TOWN OF BATAVIA**

\_\_\_\_\_  
**William Wagner, Mayor**

\_\_\_\_\_  
**Gregory H. Post, Supervisor**

**STATE OF NEW YORK)**  
**COUNTY OF GENESEE) SS.**

On the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_ before me, the undersigned, a Notary Public in and for said State, personally appeared **William Wagner**, 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

**MARCH 21, 2018**  
**REGULAR TOWN BOARD MEETING**

**STATE OF NEW YORK)**  
**COUNTY OF GENESEE) SS.**

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me, the undersigned, a Notary Public in and for said State, personally appeared **Gregory H. Post**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**RESOLUTION NO. 73:**

Councilwoman White offered the following:

**PURCHASE NEW SERVICE BODY FOR**  
**TOWN WATER AND SEWER DEPARTMENT**

**WHEREAS**, the 2018 Town Budget reflects appropriations to purchase a new service body for the Water and Sewer Department; and

**WHEREAS**, the Town solicited bids for a new 2018 8 ft service body to be installed on a pickup truck. 8 bids were received on the service body. The low bidder was Orleans Ford, 1405 S. Main Street, NY 14103 at a price of \$5,254.00; and

**WHEREAS**, resolution number 53, dated February 21, 2018 approved purchase of one service body, and

**WHEREA**, an additional one is need and the existing 2016 F250 8' pickup truck bed is no longer needed and will be sold at auction.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes the purchase a new 2018 8 ft. Service body from Orleans Ford at a cost of \$5,254.00 and authorizes the 2016 F250 8' pickup truck bed be sold at auction, and be it

**FURTHER RESOLVED**, the expenditures will be appropriated from line item SW8340.200, SS1-8120.200 and SS2-8120.200.

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

**RESOLUTION NO. 74:**

**MARCH 21, 2018**  
**REGULAR TOWN BOARD MEETING**

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW NO. 2 of 2018**  
**AND TO SCHEDULE A PUBLIC HEARING**

**WHEREAS**, Town of Batavia, the Town Board of the Town of Batavia, New York desires to consider adopting legislation to ‘Amend the Vehicle and Traffic Law within the Town of Batavia’, also known as “Local Law No. 2 of 2018 “A Local Law Amending the Town of Batavia Vehicle and Traffic Law”.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York that proposed Local Law No. 2 of 2018 entitled " A Local Law Amending the Town of Batavia Vehicle and Traffic Law ", which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, be and the same hereby is introduced for adoption; and

**BE IT FURTHER RESOLVED** that said proposed Local Law be laid upon the desks of the members of this Town Board on this date and remain there and a copy thereof be kept on file in the office of the Town Clerk until April 18, 2018, and that a public hearing be held before this Town Board on the 18<sup>th</sup> day of April, 2018 at 7:05 p.m. at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, on the advisability of enacting said proposed Local Law; and

**BE IT FURTHER RESOLVED** that a copy of said proposed Local Law be mailed to each member of the Town Board not in attendance at this meeting in a postpaid, properly addressed and securely closed envelope in a post box within the Town of Batavia, New York not less than ten (10) calendar days, exclusive of Sunday, prior to the date of said public hearing; and

**BE IT FURTHER RESOLVED** that the Town Clerk shall cause notice of said public hearing to be published once in The Daily News at least five (5) days prior to the date of said public hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk's Office.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (5-0)**

Local Law Filing

New York State Department of State  
41 State Street, Albany, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County \_\_\_\_\_ of \_\_\_\_\_  
City \_\_\_\_\_  
Town \_\_\_\_\_  
Village \_\_\_\_\_  
Batavia, Genesee County, New York

**MARCH 21, 2018**  
**REGULAR TOWN BOARD MEETING**

Local Law No.     2     of the year 2018.

A local law known as A Local Law Amending the Town of Batavia Vehicle and Traffic Law  
(Insert Title)

Be it enacted by the \_\_\_\_\_ Town Board \_\_\_\_\_ of the  
(Name of Legislative Body)

County  
City of **Batavia, Genesee County, New York** as follows:  
Town  
Village

ARTICLE I: **ENACTMENT, AUTHORIZATION, PURPOSE, AND TEXT OF AMENDMENTS**

Section 1. Title.

The title of this chapter shall be "A Local Law Amending the Town of Batavia Vehicle and Traffic Law. "

Section 2. Purpose and Intent.

The Town Board of Batavia has experienced considerable retail and residential growth since the last amendments to the Town Vehicle and Traffic law, which has resulted in the addition of new roadways and further traffic congestion. It is the purpose and intent of this law to promote the public health and safety by providing additional devices to control the flow of traffic on new and existing highways in the Town.

Section 3. Amendments to Vehicle and Traffic Law.

Chapter 127 of the Code of the Town of Batavia, entitled "Highways; Vehicles and Traffic" is hereby amended as follows:

- A. The text within Section 127-19, entitled "Driveway permit," is hereby deleted in its entirety and replaced with the following:

Applications for driveway permits required under Article IV herein shall be submitted to the Highway Superintendent for approval using the driveway permit form as approved from time to time by the Town Board.

- B. The text within Section 127-20, entitled "Highway construction permit," is hereby deleted in its entirety and replaced with the following:

Applications for Highway Construction Permits required under Article IV herein shall be submitted to the Highway Superintendent for approval using the Highway Construction permit form as approved from time to time by the Town Board.

- C. The text within Section 127-23, entitled "Truck exclusions," is hereby modified as follows:

- a. The title of the Section shall be changed to "Truck exclusions and regulations."

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**REGULAR TOWN BOARD MEETING**

- b. Subsection C is deleted and replaced with the following:

This requirements of subsections A and B of this Section shall not be construed to prevent the delivery or pickup of merchandise or other property along the town highways from which such trucks, tractors and tractor-trailer combinations are otherwise excluded.

- c. New Subsection D is added as follows:

Except for state highways, no motor vehicle shall be operated on any highway within the Town in a manner which utilizes an engine compression braking system, also known as a “Jake Brake.”

- D. Section 127-31, entitled “Schedule 1, Stop Intersections,” is hereby modified by the addition of the following stop intersections:

<u>Stop Sign on</u>	<u>Direction of Travel</u>	<u>At Intersection of</u>
Red Oak Lane	South	NYS Route 5
Red Oak Lane	North	Seven Springs Road
Laurel Oak Way	West	Red Oak Lane
Laurel Oak Way	East	Cherry Bark Lane
Black Oak Lane	South	Laurel Oak Way
Black Oak Lane	North	Red Oak Lane
White Oak Court	South	Red Oak Lane
Cherry Bark Lane	North	Red Oak Lane
Pin Oak Circle	South	Red Oak Lane
Pin Oak Circle	North	Red Oak Lane

- E. Section 127-35, entitled “Schedule 5, No Parking,” is hereby amended by the addition of the following streets:

<u>Name of Highway</u>	<u>From</u>	<u>To</u>
Veterans Memorial Drive	Lewiston Road	Park Road
Barrett Drive	Dead End	NYS Route 5
Commerce Drive	Federal Drive	Federal Drive
Federal Drive	NYS Route 98	Dead End

- F. Section 127-37, entitled “Establishment,” is hereby amended by the deletion of Paragraph B thereof, which pertains to the establishment of a 10-foot wide crosswalk on Park Road.

ARTICLE II: **EFFECTIVE DATE AND SEVERABILITY**

Section 1: **Effective Date**

This local law shall take effect immediately upon filing with the Department of State.

Section 2: **Severability**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

**MARCH 21, 2018**  
**REGULAR TOWN BOARD MEETING**

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2018, of the ~~(County)~~ (City) (Town) (~~Village~~) of Batavia, New York was duly passed by the Town Board on \_\_\_\_\_, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the ~~(County)~~ (City) (Town) (Village) \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved) (not disapproved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 2006, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the ~~(County)~~ (City) (Town) (~~Village~~) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_, and was (approved) (not disapproved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the ~~(County)~~ (City) (Town) (~~Village~~) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_, and was (approved) (~~not disapproved~~) (~~repassed after disapproval~~) by the \_\_\_\_\_ on 20\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_, in accordance with the applicable provisions of law.

**\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the

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qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

(SEAL)

Teressa M. Morasco  
Town Clerk, Town of Batavia

\_\_\_\_\_

Date: \_\_\_\_\_, 2018

**Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF GENESEE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

\_\_\_\_\_

Andrew W. Meier  
Town Attorney  
County \_\_\_\_\_  
City \_\_\_\_\_ of Batavia  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Date: \_\_\_\_\_

**RESOLUTION NO. 75:**

Supervisor Post offered the following:

**BRIDGE NY GRANT APPLICATIONS**

**WHEREAS**, the New York State Department of Transportation is soliciting applications for the Bridge-NY Program which provides 100% state funding for up to 1 bridge replacement and 3 culvert replacements for a municipality per year; and

**WHEREAS**, Genesee County maintains all bridges and culverts over 5 feet in diameter for each municipality in the County; and

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**WHEREAS**, the New York State Department of Transportation allows municipalities to sponsor applications to the Bridge-NY program for all bridges and culverts within their community regardless of ownership; and

**WHEREAS**, Genesee County is looking to maximize the use of state aid to help alleviate its backlog of bridge and culvert replacements; and

**WHEREAS**, Genesee County will prepare Bridge-NY applications, provide interim funding and administer the program at no cost to the Town; and

**WHEREAS**, Towns are required to authorize Bridge-NY applications as the sponsor of the project.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Town Board does hereby authorize the Town Supervisor to submit the applications for the Bridge NY Program as recommended by Genesee County.

**Second by:** Councilwoman White

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 76:**

Councilwoman Michalak offered the following:

**RESOLUTION TO RECIND RESOLUTION 112 DATED July 19, 2006**  
**REGARDING GATEWAY II TRAFFIC MITIGATION**

**WHEREAS**, the Town Board approved resolution No. 112 dated July 19, 2006, entitled, “Concurring with Department of Transportation Conditions for the Phased Development of the Property” for the traffic mitigation that is required for the phased development of the Genesee Gateway Local Development Corporation property. This resolution is no longer valid as the initial development of 7.88 acres did not occur, therefore this resolution should be rescinded.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York that resolution no 112 dated July 19, 2006 is hereby rescinded; and be it further

**RESOLVED**, that the Town Clerk is hereby directed to transmit a certified copy of the foregoing resolution to the New York State Department of Transportation.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (5-0)**

**MARCH 21, 2018**  
**REGULAR TOWN BOARD MEETING**

**RESOLUTION NO. 77:**

Councilman Zambito offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW NO. 3 of 2018**  
**AND TO SCHEDULE A PUBLIC HEARING**

**WHEREAS**, Town of Batavia, the Town Board of the Town of Batavia, New York desires to consider adopting legislation to ‘Amend the Road Specifications Law’, also known as Local Law No. 3 of 2018 “A Local Law Amending the Town of Batavia Road Specifications Law”.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York that proposed Local Law No. 3 of 2018 entitled " A Local Law Amending the Town of Batavia Road Specifications Law ", which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, be and the same hereby is introduced for adoption; and

**BE IT FURTHER RESOLVED** that said proposed Local Law be laid upon the desks of the members of this Town Board on this date and remain there and a copy thereof be kept on file in the office of the Town Clerk until April 18, 2018, and that a public hearing be held before this Town Board on the 18<sup>th</sup> day of April, 2018 at 7:10 p.m. at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, on the advisability of enacting said proposed Local Law; and

**BE IT FURTHER RESOLVED** that a copy of said proposed Local Law be mailed to each member of the Town Board not in attendance at this meeting in a postpaid, properly addressed and securely closed envelope in a post box within the Town of Batavia, New York not less than ten (10) calendar days, exclusive of Sunday, prior to the date of said public hearing; and

**BE IT FURTHER RESOLVED** that the Town Clerk shall cause notice of said public hearing to be published once in The Daily News at least five (5) days prior to the date of said public hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk's Office.

**Second by:** Councilwoman Michalak

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

**APPROVED by unanimous vote (5-0)**

Local Law Filing

New York State Department of State  
41 State Street, Albany, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County \_\_\_\_\_  
City \_\_\_\_\_ of \_\_\_\_\_  
Town \_\_\_\_\_  
Village \_\_\_\_\_  
Batavia, Genesee County, New York

**MARCH 21, 2018**  
**REGULAR TOWN BOARD MEETING**

Local Law No.   3   of the year 2018.

A local law known as A Local Law Amending the Town of Batavia Road Specifications Law  
(Insert Title)

Be it enacted by the \_\_\_\_\_ Town Board \_\_\_\_\_ of the  
(Name of Legislative Body)

County  
City of **Batavia, Genesee County, New York** as follows:  
Town  
Village

ARTICLE I: **ENACTMENT, AUTHORIZATION, PURPOSE, AND TEXT OF AMENDMENTS**

Section 1. Title.

The title of this chapter shall be "A Local Law Amending the Town of Batavia Road Specifications Law. "

Section 2. Purpose and Intent.

The Town Board of Batavia has routinely updates standard construction requirements for public and private roads built within the Town. This law will decodify standard town specifications, and provide that current specifications will be maintained in the office of the Town Highway Superintendent and Town Engineer. The purpose and intent of this change is to provide for more efficient and economical implementation of changes the Town standard construction specifications.

Section 3. Amendments to Road Specifications Law.

Chapter 183 of the Code of the Town of Batavia, entitled "Road Specifications," is hereby amended as follows:

- A. Section 183-2, entitled "Applicable Standards," is hereby amended by the addition of the following sentence at the beginning of the Section:

All Town roads shall be constructed in accordance with current Town standard details, which shall be on file in the offices of the Town Superintendent of Highways and Town Engineer.

- B. Section 183-8, entitled "Right-of-way, grading and shoulders," is hereby amended by the deletion of the final sentence of the Section and insertion of the following sentence in its place:

Shoulder widths shall be as shown on typical section diagrams shown in the Town standard details.

- C. Section 183-13, entitled "Typical road section," is hereby amended by the deletion of the following from the middle of the first sentence:

at the end of this specification

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**REGULAR TOWN BOARD MEETING**

and replacement of same by the following:

in the Town standard details

- D. The Attachments to Section 183 at pages 18323 through 18333, consisting of the codified typical section diagrams, are hereby deleted in their entirety.

ARTICLE II: **EFFECTIVE DATE AND SEVERABILITY**

Section 1. Effective Date

This local law shall take effect immediately upon filing with the Department of State.

Section 2. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No.   3   of 2018, of the ~~(County)~~ (City) (Town) (~~Village~~) of Batavia, New York was duly passed by the Town Board on \_\_\_\_\_, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the ~~(County)~~ (City) (~~Town~~) (Village) \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved) (not disapproved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 2006, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

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I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the ~~(County)~~ (City) (Town) (~~Village~~) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_, and was (approved) (not disapproved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on \_\_\_\_\_ 20\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the ~~(County)~~ (City) (Town) (~~Village~~) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_, and was (approved) (~~not disapproved~~) (~~repassed after disapproval~~) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_, in accordance with the applicable provisions of law.

**\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1\_\_, above.

(SEAL)

\_\_\_\_\_  
Teressa M. Morasco  
Town Clerk, Town of Batavia

Date: \_\_\_\_\_, 2018

**Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other**

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authorized Attorney of locality.)

STATE OF NEW YORK  
COUNTY OF GENESEE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

\_\_\_\_\_  
Andrew W. Meier  
Town Attorney  
County \_\_\_\_\_  
City of Batavia  
Town \_\_\_\_\_  
Village \_\_\_\_\_  
  
Date: \_\_\_\_\_

**RESOLUTION NO. 78:**

Councilwoman White offered the following:

**RESOLUTION TO APPROVE UTILITY EASEMENT**

**AT GENESEE COMMUNITY COLLEGE**

**WHEREAS**, Genesee Community College installed approximately 700 feet of water and sewer main and appurtenances along the west side of Genesee Community College's westerly driveway entrance to provide water-sewer service to their campus, and would like the Town to take over future maintenance and operation of these lines; and

**WHEREAS**, the Town of Batavia needs this easement in order to hereinafter operate and maintain the water and sewer mains and appurtenances; and

**WHEREAS**, County of Genesee, owner of the property, will grant a utility easement to the Town of Batavia, for compensation of \$1.00.

**NOW, THEREFORE, BE IT**

**RESOLVED** by the Town Board of the Town of Batavia, New York, that the permanent utility easement that the County of Genesee is proposing to grant to the Town of Batavia is hereby approved and accepted, a copy of which is annexed hereto and made a part of the minutes; and be it further

**RESOLVED**, the Supervisor is hereby authorized to execute on behalf of the Town of Batavia any documents necessary to record the utility easement from the County, regarding Tax Map No. 9.-1-6.114, situated in the Town of Batavia.

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

**UTILITY PERMANENT EASEMENT**

**THIS INSTRUMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,

**BETWEEN**

**COUNTY OF GENESEE**, a Municipality in New York State, having its principal office at County Building No. 1, Main and Court Street, Batavia, New York 14020, hereinafter referred to as "Owner", and

**TOWN OF BATAVIA, NEW YORK**, a New York Municipal Corporation having offices located at 3833 West Main Street Road, Batavia, New York 14020, hereinafter referred to as "Town".

**W I T N E S S E T H**

**WHEREAS**, the party of the first part is the owner of all that tract or parcel of land situated in the Town of Batavia, County of Genesee and State of New York, said lands being locally known as Tax Map No. 9.-1-6.114, in the Town of Batavia, New York and as conveyed to Owner by Deed recorded in the Genesee County Clerk's Office; and

**WHEREAS**, the Town seeks the permission of the Owner for an easement for water and sewer lines and appurtenances over a portion of said premises to operate, maintain and make repairs in connection therewith.

**NOW, THEREFORE**, the Owner, in consideration of the sum of One Dollar (\$1.00), lawful money of the United States, and other good and lawful consideration paid by the Town, receipt of which is hereby acknowledged, does hereby grant and release unto the Town, its successors and assigns, a permanent and perpetual easement and right of way over property of the Owner generally described above and more particularly described as per the attached Schedule A and shown on the attached Exhibit A easement map dated 10/2017.

**IT IS FURTHER UNDERSTOOD AND AGREED THAT:**

1. Owner does hereby grant to the Town a perpetual, non-exclusive easement over, across, under, through and upon that portion of the Property as described on the easement map, (the "Permanent Utility Easement"), for the purpose of installing, constructing, operating, repairing, maintaining,

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relocating, replacing, removing and/or changing the size of the water and sewer pipes. The Utility Easement is given together with the right of the Town to enter upon the Property over such drives, lanes, and ways as exist on the Property and are reasonably convenient to the Water Utility Easement.

2. The Town shall have the right to remove trees and shrubs or branches from within the Utility Easement area, which is necessary, in the sole, but reasonable, opinion of the Town, for the use of the Utility Easement by the Town. Notwithstanding anything to the contrary, the Town shall not be liable to Owner for the value of trees, shrubs or branches that are removed from within the permanent easement area, or any value that they may add to the property of Owner.

3. The Owner shall have the right to use the surface of the Utility Easement provided that such use shall not interfere with, obstruct or endanger any of the rights herein granted, and further provided that no house or other structure shall be erected or ground surface grades changed within the permanent easement area without prior written consent of the Town.

4. The easement and right of way granted herein is permanent and perpetual and shall for all purposes be construed as a covenant running with the land and shall be binding upon the heirs, distributees, successors and assigns of Owner.

5. Owner does hereby lawfully covenant with the Town that the Owner is lawfully seized and possessed of the real estate above described and that said Owner has a good and lawful right to convey it or any part of it to the Town.

6. In further consideration of said grant the Town shall, after the initial installation or subsequent maintenance of any of the water and sewer facilities, restore the surface disturbed as nearly as practicable to the same condition as before said installation or maintenance work.

**IN WITNESS WHEREOF**, Owner has executed this instrument on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
**County of Genesee**

State of New York )  
County of Genesee ) ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, 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. 79:**

Deputy Supervisor Underhill offered the following:

**UNITED WAY DAY OF CARING**

**RESOLVED**, the Batavia Town Board hereby authorizes a team of five employees (Steven Mountain, Teresa Morasco, Sarah Sauka, Matthew Mahaney, and Sandra Baubie) from the Town of Batavia to participate in the United Way Day of Caring, Wednesday, May 16, 2018.

**Second by:** Councilwoman White

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 80:**

Supervisor Post offered the following:

**INVESTMENT POLICY  
AMENDMENT**

**WHEREAS**, the Town of Batavia has had an investment policy in effect since February 1988, with amendments through January 2013; and

**WHEREAS**, the Batavia Town Board wishes to amend section 20-7, "Designation of Depositories" to :

<b>Depository Name</b>	<b>Maximum Amount</b>	<b>Officer</b>
Manufactures and Traders Trust Company, Oakfield Branch	\$4,500,000	Supervisor
Five Star Bank, Batavia, New York	\$4,500,000	Supervisor
Bank of Castile, Batavia, New York	\$4,500,000	Supervisor
Key Bank of Batavia	\$4,500,000	Supervisor
First Niagara Bank, Batavia, New York	\$4,500,000	Supervisor

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JP Morgan Chase Bank NA	\$4,500,000	Supervisor
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**NOW, THEREFORE BE IT**

**RESOLVED**, the Batavia Town Board hereby amends Section 20-7 of the Investment Policy to:

<b>Depository Name</b>	<b>Maximum Amount</b>	<b>Officer</b>
Manufactures and Traders Trust Company, Oakfield Branch	\$4,500,000	Supervisor
Five Star Bank, Batavia, New York	\$4,500,000	Supervisor
Bank of Castile, Batavia, New York	\$4,500,000	Supervisor
Key Bank of Batavia	\$4,500,000	Supervisor
First Niagara Bank, Batavia, New York	\$4,500,000	Supervisor
JP Morgan Chase Bank NA	\$4,500,000	Supervisor

a complete amended copy of which is annexed hereto and made a part of the minutes.

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

**INVESTMENT POLICY**

**§ 20-1 Scope.**

This investment policy applies to all moneys and other financial resources available for investment on its own behalf or on behalf of any other entity or individual.

**§ 20-2 Objectives.**

The primary objectives of the local government's investment activities are, in priority order:

**A.**

To conform to all applicable federal, state and other legal requirements (legal);

**B.**

To adequately safeguard principal (safety);

**C.**

To provide sufficient liquidity to meet all operating requirements (liquidity); and

**D.**

To obtain a reasonable rate of return (yield).

**§ 20-3 Delegation of authority.**

The governing board's responsibility for administration of the investment program is delegated to the Supervisor, who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability, based on a database of records incorporating description and amounts of investments, transaction dates, and other relevant information, and regulate the activities of subordinate employees.

**§ 20-4 Prudence.**

**A.**

All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the Town of Batavia to govern effectively.

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**B.**

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.

**C.**

All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions.

**§ 20-5 Diversification.**

It is the policy of the Town of Batavia to diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling.

**§ 20-6 Internal controls.**

**(Amended 1-2013)**

**A.**

It is the policy of the Town of Batavia for all moneys collected by any officer or employee of the government to be deposited within three days of collection, or within the time period specified in law, whichever is shorter. All said moneys collected for the month must be transferred to the Chief Fiscal Officer by the 5th of the following month.

**B.**

The Supervisor is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and recorded properly and are managed in compliance with applicable laws and regulations.

**§ 20-7 Designation of depositories.**

**[Amended 8-16-1995; 4-21-1999; 1-2013]**

The banks and trust companies authorized for the deposit of moneys up to the maximum amounts are:

<b>Depository Name</b>	<b>Maximum Amount</b>	<b>Officer</b>
Manufactures and Traders Trust Company, Oakfield Branch	\$4,500,000	Supervisor
Five Star Bank, Batavia, New York	\$4,500,000	Supervisor
Bank of Castile, Batavia, New York	\$4,500,000	Supervisor

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Key Bank of Batavia	\$4,500,000	Supervisor
First Niagara Bank, Batavia, New York	\$4,500,000	Supervisor
JP Morgan Chase Bank NA	\$4,500,000	Supervisor

**§ 20-8 Collateralizing of deposits.**

In accordance with the provisions of General Municipal Law § 10, all deposits of the Town of Batavia, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

**A.**

By a pledge of eligible securities with an aggregate market value as provided by General Municipal Law § 10, equal to the aggregate amount of deposits from the categories designated in Appendix A to the policy.

**B.**

By an eligible irrevocable letter of credit issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed-upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.

**C.**

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By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed-upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

**§ 20-9 Safekeeping and collateralization.**

A.

Eligible securities used for collateralizing deposits shall be held by the depository and/or a third party bank or trust company subject to security and custodial agreements.

B.

The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed-upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Town of Batavia or its custodial bank.

C.

The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodian for the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

**§ 20-10 Permitted investments.**

A.

As authorized by General Municipal Law § 11, the Town of Batavia authorizes the Supervisor to invest moneys not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:

(1)

Special time deposit accounts.

(2)

Certificates of deposit.

(3)

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Obligations of the United States of America.

(4)

Obligations guaranteed by agencies of the United States of America where the payment of principal and interest is guaranteed by the United States of America.

(5)

Obligations of the State of New York.

(6)

Obligations issued pursuant to Local Finance Law § 24.00 or 25.00 (with approval of the State Comptroller) by any municipality, school district or district corporation other than the Town of Batavia.

(7)

Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general state statutes governing such entities or whose specific enabling legislation authorizes such investments.

(8)

Certificates of participation (COPs) issued pursuant to General Municipal Law § 109-b.

(9)

Obligations of this local government, but only with any moneys in a reserve fund established pursuant to General Municipal Law § 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m or 6-n.

B.

All investment obligations shall be payable or redeemable at the option of the Town of Batavia within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Town of Batavia within two years of the date of purchase.

**§ 20-11 Authorized financial institutions and dealers.**

The Town of Batavia shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the local government conducts business must be credit worthy. Banks shall provide their most recent Consolidated Report of Condition (Call Report) at the request of the Town of Batavia. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers. The Supervisor is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated at least annually.

**§ 20-12 Purchase of investments.**

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A.

The Supervisor is authorized to contract for the purchase of investments:

(1)

Directly, including through a repurchase agreement, from an authorized trading partner.

(2)

By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5G of the General Municipal Law where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46 and the specific program has been authorized by the governing board.

(3)

By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.

B.

All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the Town of Batavia by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law § 10.

C.

The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

**§ 20-13 Repurchase agreements.**

Repurchase agreements are authorized subject to the following restrictions:

A.

All repurchase agreements must be entered into subject to a master repurchase agreement.

B.

Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.

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C.

Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.

D.

No substitution of securities will be allowed.

E.

The custodian shall be a party other than the trading partner.

**RESOLUTION NO. 81:**

Councilwoman Michalak offered the following:

**RESOLUTION TO RESCIND RESOLUTION 50 OF 2018  
AUTHORIZING SPECTRUM BUSINESS  
INTERNET AND VOICE SERVICES**

**WHEREAS**, the Town of Batavia adopted Resolution 50, dated February 21, 2018 accepting Spectrum Business proposal for 100 Mbps x 10 Mbps Spectrum Business Internet and two Spectrum Business Voice Lines at a cost of \$179.97 per month, plus a one-time installation fee of \$99.00; and

**WHEREAS**, Spectrum made an error in the proposal and it is necessary to rescind resolution 50.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby rescinds Resolution 50 of 2018 for Spectrum Business Internet and two Spectrum Business Voice Lines at a cost of \$179.97 per month, plus a one-time installation fee of \$99.00.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 82:**

Councilman Zambito offered the following:

**RESOLUTION AUTHORIZING SPECTRUM BUSINESS  
INTERNET AND VOICE LINE SERVICES**

**WHEREAS**, the Town of Batavia authorized an agreement for high speed internet access and cable television service with Time Warner Cable Business Class for the Town Hall and Highway Facility at the October 15, 2014 Town Board Meeting; and

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**WHEREAS**, said agreement has expired; and

**WHEREAS**, Spectrum Business (formerly Time Warner Cable Business Class) proposed an internet upgrade from 35 Mbps X 5 Mbps to 200 Mbps x 15 Mbps, with two new voice lines at a cost of \$229.98 per month, plus a one-time installation fee of \$99.00 (quote attached); and

**WHEREAS**, Spectrum Business services are on a month to month basis and no longer require a three-year agreement.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby accepts Spectrum Business proposal for 200 Mbps x 15 Mbps Spectrum Business Internet and two Spectrum Business Voice Lines at a cost of \$229.98 per month, plus a one-time installation fee of \$99.00.

**Second by:** Deputy Supervisor Underhill

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 83:**

Councilwoman White offered the following:

**ESTABLISH 2017 BUDGETARY LINE ITEM**

**RESOLVED**, the Batavia Town Board hereby establishes revenue line item SW2392-Debt Service, Other Governments for the 2017 Budget.

**Second by:** Deputy Supervisor Underhill

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 84:**

Deputy Supervisor Underhill offered the following:

**2017 TOWN BUDGET  
RESOLUTION INCREASING BUDGETARY LINE ITEMS**

**RESOLVED**, the Batavia Town Board hereby increases the following line items:

**Expenditure Line Item:**

SW8350.400            \$160,757.36

**Revenue Line Item:**

SW2392                    \$160,757.36

**Second by:** Councilwoman Michalak

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

**APPROVED by unanimous vote (5-0)**

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**RESOLUTION NO. 85:**

Supervisor Post offered the following:

**NAMING OF STREETS LOCATED IN OAKWOOD HILLS SUBDIVISION**

**WHEREAS**, pursuant to Town Law, the Town Board has the responsibility of naming streets;  
and

**WHEREAS**, Zeliff Properties has requested the roads within the Oakwood Subdivision be named in accordance with the subdivision final plat map prepared by Costich Engineering June 26, 2013, approved by Town of Batavia Planning Board July 16, 2013, with signatures of approval on March 20, 2014 and attached hereto. The roads shall be named as follows:

- Red Oak Lane
- Laurel Oak Way
- Cherry Bark Lane
- Black Oak Lane
- White Oak Court
- Pin Oak Circle

**NOW, THEREFORE, BE IT RESOLVED**, that pursuant to Town Law, the Batavia Town Board hereby names the roadways within the Oakwood Hills Subdivision as follows:

- Red Oak Lane
- Laurel Oak Way
- Cherry Bark Lane
- Black Oak Lane
- White Oak Court
- Pin Oak Circle

,and be it

**FURTHER RESOLVED**, that the Batavia Town Clerk is hereby directed to notify the Assessor, Planning Board, Genesee County Clerk, Genesee County Engineer, Genesee County Emergency Management Services, Genesee County Sheriffs Department, Town of Batavia Fire Department, and the Batavia Post Office of these road names within ten days of this adoption.

**Second by:** Deputy Supervisor Underhill

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 86:**

Councilwoman Michalak offered the following:

**FINAL DEDICATION OF OAKWOOD HILLS ROAD, WATER AND SEWER**

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**IMPROVEMENTS FROM**  
**ZELIFF PROPERTIES**

**WHEREAS**, Zeliff Properties had completed and the Town has taken temporary dedication of the previously completed highway, water and sewer improvements for Phases 1, 2 and a portion of Phase 3 contingent upon the final completion of Phase 3 and several punch list items for the new Oakwood Hills subdivision; and

**WHEREAS**, Zeliff Properties has completed the remainder of Phase 3 including Red Oak Lane and Pin Oak Circle highway, water and sewer improvements as shown on the approved construction drawings labeled Oakwood Hills dated November, 2013 on file with the Town Building and Zoning Department and generally described as follows:

Remainder of Phase 3 which have been completed:

Roadway

Red Oak Lane

(from Cherry Bark Lane/Red Oak Lane intersection to Red Oak Lane/ Seven Springs Road Intersection approx. 1070 lf)

Pin Oak Circle

(from Pin Oak Circle/Red Oak Lane intersection to Red Oak Lane/ Pin Oak Lane intersection approx. 680 lf)

Total approximate value of roadways           \$ 580,000

Water

Water mains and services within the road right of way on the above roadways

Total approximate value of water improvements   \$ 126,000

Sewer

Sewer main and laterals within the road right of way on the above roadways

Total approximate value of sewer improvements   \$ 80,000

Total value of all improvements                   \$ 786,000

**WHEREAS**, Zeliff Properties has now completed all of the highway, water and sewer improvements and punch list items within the Oakwood Hills Subdivision and would like the Town to take final dedication of the following highways, water and sewer improvements:

Roadway

Red Oak Lane, Laurel Oak Way, Cherry Bark Lane, Black Oak Lane  
White Oak Court, Pin Oak Circle

Total approximate value of roadways           \$ 3,173,000

Water

Water mains and services within the road right of way on the above roadways

Total approximate value of water improvements   \$ 690,000

Sewer

Sewer main and laterals within the road right of way on the above roadways

Total approximate value of sewer improvements   \$ 431,000

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Total value of all improvements     \$ 4,294,000

**WHEREAS**, the above noted improvements were constructed under the supervision of the Town of Batavia, and in accordance with the rules, regulations and laws regarding such construction; and

**WHEREAS**, Zelif Properties has requested the Town of Batavia to accept final dedication of said highway, water and sewer improvements; and

**WHEREAS**, the Highway Superintendent and Town Engineer recommend the Town Board accepts the highway, water and sewer improvements; and

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Town of Batavia accepts dedication of said highway, water and sewer improvements for the entire Oakwood Hills Subdivision as shown on the approved construction drawings labeled Oakwood Hills dated November, 2013 and generally described as follows:

Roadway

Red Oak Lane, Laurel Oak Way, Cherry Bark Lane, Black Oak Lane  
White Oak Court, Pin Oak Circle

Total approximate value of roadways     \$ 3,173,000

Water

Water mains and services within the road right of way on the above roadways

Total approximate value of water improvements     \$ 690,000

Sewer

Sewer main and laterals within the road right of way on the above roadways

Total approximate value of sewer improvements     \$ 431,000

Total value of all improvements     \$ 4,294,000

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (5-0)**

**Creation of the Oakwood Hills Drainage District SEQR** was completed and reviewed

**RESOLUTION NO. 87:**

Councilman Zambito offered the following:

**TOWN OF BATAVIA**

**CREATION OF THE OAKWOOD HILLS DRAINAGE DISTRICT**

**SEQR RESOLUTION**

**RESOLVED**, that in accordance with the New York State Environmental Quality Review regulations (SEQR), the Town Board of the Town of Batavia announces its intent to serve as Lead Agency

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to conduct an environmental review under Section 617.7 of the New York State Codes, Rules and Regulations (NYSCRR) of a project to establish the Oakwood Hills Drainage District. The creation of the proposed drainage district will allow for the maintenance of the Storm Water Treatment Areas within the Oakwood Subdivision; and be it

**FURTHER RESOLVED**, that the Town Board has determined that the proposed action is an “Unlisted Action” as defined under SEQR; and be it.

**FURTHER RESOLVED**, that the Town Board, in its capacity of Lead Agency, has caused to be prepared a Short Form SEQRA identifying the significance of potential environmental impact of the above-listed action. The Town Board hereby accepts the short form SEQRA assessment of the proposed project, prepared by Tom Lichtenthal, Town Assistant Engineer. The Town Board further declares that, based on the environmental assessment 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:** Deputy Supervisor Underhill  
**Ayes:** Zambito, Underhill, Michalak, White, Post  
**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 88:**

Councilwoman White offered the following:

**ORDER FOR PUBLIC HEARING ON ESTABLISHMENT OF  
OAKWOOD HILLS DRAINAGE DISTRICT  
FOR A PORTION OF THE TOWN OF BATAVIA**

**WHEREAS**, the Town Board of the Town of Batavia, New York, has duly adopted a Resolution directing the Supervisor of the Town of Batavia to file a Map, Plan and Report for providing the facilities, improvements or services in a portion of the Town of Batavia, where a Drainage District is proposed to be established; and said Map, Plan and Report has been filed in the office of the Town Clerk of the Town of Batavia on March 14, 2018 and

**WHEREAS**, the Town Board has determined that Oakwood Hills, LLC, the Owner of the Subdivision, (hereinafter referred to as “Owner” and “Subdivision”, respectively), is in favor of obtaining storm water maintenance services for a system that the Owner constructed, through the formation of the proposed Drainage District, and

**WHEREAS**, the Town Board believes that it would be in the best interest of the future residents of the Subdivision to create the proposed Drainage District, and

**WHEREAS**, pursuant to the authority of Article 12-A of the New York State Town Law, the Town Board does intend to form proposed Oakwood Hills Drainage District, pursuant to the said Map, Plan and Report, subject to holding a Public Hearing, and further subject to the permissive referendum

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process, and

**WHEREAS**, the boundaries of the proposed Drainage District are as set forth on **EXHIBIT A** attached hereto, and

**WHEREAS**, the improvements have already been completed by the Owner, and consist of concrete gutters, catch basins and pipe that convey storm water runoff to storm water management areas, and other improvements (referred to hereinafter as “storm water improvements”). The storm water management areas treat the storm water to reduce the sediment load and then release the water back into the ground or to an existing off-site drainage system, and

**WHEREAS**, all of the storm water improvements have been constructed and installed pursuant to the specifications of the Town of Batavia at the sole cost and expense of the Owner of the Subdivision, with no direct initial capital cost to the residents of the Drainage District, and

**WHEREAS**, the storm water improvements have been inspected by the Town, and ownership of these storm water improvements will remain with the Owner, subject to any easements hereafter acquired by the District to further the purposes for which it is formed, and

**WHEREAS**, capital costs will not be incurred by the Town in the future for any upgrades or replacement of portions of the storm water improvements unless the Oakwood Hills Homeowners Association fails to maintain and/or improve same as needed as hereinafter provided, and therefore, the Town will not incur debt service for funding of these costs and expenses  
And

**WHEREAS**, the post-construction maintenance of the storm water system and storm water management areas will require the following:

- A. Cleaning control structures and storm water pipes.
- B. Mowing and maintaining grass and vegetation within the storm water management areas.
- C. Removing sediment from storm water management areas when the infiltration rates no longer function as designed or the sediment level reaches elevations as more specifically set forth in the Map, Plan and Report, and
- D.

**WHEREAS**, it is intended that the storm water improvements will be maintained by an Oakwood Hills Homeowners Association or other similar legal entity (the “Association”) to allow these activities to be completed at costs lower than using municipal employees, and

**WHEREAS**, the Town of Batavia will perform any necessary maintenance activities regarding the storm water improvements in the event that they are not privately and properly completed in any given year by the Association, and

**WHEREAS**, the estimated annual maintenance costs will be \$25,000.00; consisting of mowing grass within storm treatment areas two times per year (\$5,000.00); cleaning and/or repairing storm pipes,

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check dams and ditches (\$3,000.00); removing sediment from one storm water treatment area per year (\$14,000.00); with the administrative, engineering and inspection costs for these activities (\$3,000.00), and

**WHEREAS**, the Subdivision contains 90 parcels consisting in size ranging from 0.4 to 1.0 acre with a typical property being 0.5 acre, and

**WHEREAS**, the total area of the 90 developed parcels will be 53.16 acres, and dividing the estimated annual cost of \$25,000.00 by 53.16 acres results in a figure of \$470.28 per acre, and

**WHEREAS**, based upon the foregoing estimates, the total initial annual cost of the typical property in the proposed district of 0.5 acre is estimated to be \$235.14 per year, and

**WHEREAS**, the Map, Plan and Report describing such improvements is on file in the office of the Town Clerk of the Town of Batavia and available for public inspection, and it is

**ORDERED**, that the Town Board of the Town of Batavia, New York, shall meet at the Town Hall, located at 3833 West Main Street Road, Batavia, New York on the 18th day of April, 2018, at 7:15 p.m. for the purpose of conducting a public hearing on the proposal to establish said Drainage District with the improvements specified herein, at which time and place all persons interested in the subject thereof may be heard concerning the same, and it is further

**ORDERED**, that the Town Clerk of the Town of Batavia is hereby authorized and directed to publish a copy of this Order in The Daily News, to post a copy of the same on the signboard of the Town of Batavia, and to mail a copy to all owners of property located within the proposed Drainage District, in the time and manner required by law, and it is further

**ORDERED**, that based upon the fact that there will be no initial debt service, thereby, the estimated total annual cost of the typical property in the proposed Drainage District is below the threshold set by the Office of the State Comptroller when a special district is created in the 2018 calendar year, approval of this District by the State Comptroller is not required, however, the Town Clerk is hereby authorized and directed to mail a certified copy of the "Public Notice", which contains the notice concerning the public hearing, along with other required information, to the Office of the State Comptroller, to be completed no later than fourteen (14) calendar days after this Public Notice has been published in the official newspaper.

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

**EXHIBIT A**

**TOWN OF BATAVIA**  
**OAKWOOD HILLS DRAINAGE DISTRICT**

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**BOUNDARY DESCRIPTION**

The boundary of the proposed Town of Batavia, Oakwood Hills Storm Water District includes all that tract or parcel of land situated in the Town of Batavia, County of Genesee, State of New York, being described as follows:

Beginning at a point which is the southwesterly corner of Tax Parcel number 13.02-1-91; thence,

1. Easterly, along the northerly line of Tax Parcel number 13.-1-107.22, a distance of 3,181 feet, more or less, to the southeasterly corner of Tax Parcel number 13.02-1-96; thence,
2. Northerly, along the easterly line of Tax Parcel number 13.02-1-96, a distance of 450 feet, more or less, to the northwesterly corner of Tax Parcel number 13.-1-4.2; thence,
3. Easterly, along the northerly line of Tax Parcel number 13.-1-4.2 and across Seven Spring Road (49.5 feet wide right-of-way), a distance of 233 feet, more or less, to the intersection of the easterly extension of the northerly line of Tax Parcel number 13.-1-4.2 and the centerline of Seven Springs Road; thence,
4. Northerly, along the centerline of Seven Spring Road, a distance of 343 feet, more or less, to the intersection of the centerline of Seven Springs Road and the easterly extension of the southerly line of Tax Parcel number 13.02-1-28; thence,
5. Westerly, across Seven Springs Road (49.5 feet wide right-of-way) and along the southerly line of Tax Parcel number 13.02-1-28, a distance of 225 feet, more or less, to the southwesterly corner of Tax Parcel number 13.02-1-28; thence,
6. Northerly, along the westerly line of Tax Parcel number 13.02-1-28, a distance of 152 feet, more or less, to the northwesterly corner of Tax Parcel number 13.02-1-28; thence,
7. Westerly, along the southerly line of Tax Parcel number 13.-1-4.121, a distance of 72 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-4.121; thence,
8. Northerly, along the westerly line of Tax Parcel numbers 13.-1-4.121 and 13.-1-4.111, a distance of 350 feet, more or less, to the northwesterly corner of Tax Parcel number 13.-1-4.111; thence,
9. Easterly, along a the northerly line of Tax Parcel number 13.-1-4.111, a distance of 56 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-151; thence,
10. Northerly, along the westerly line of Tax Parcel numbers 13.-1-151, 13.-1-150, and 13.-1-149.1, a distance of 555 feet, more or less, the northwesterly corner of Tax Parcel number 13.-1-149.1; thence,
11. Easterly, along the northerly line of Tax Parcel number 13.-1-149.1 and across Seven Springs Road (49.5 feet wide right-of-way), a distance of 223 feet, more or less, to the intersection of the easterly extension of the northerly line of Tax Parcel number 13.-1-149.1 and the centerline of Seven Springs Road; thence,
12. Northerly, along the centerline of Seven Spring Road, a distance of 100 feet, more or less, to the intersection of the centerline of Seven Springs Road and the easterly extension of the southerly line of Tax Parcel number 13.-1-9; thence,
13. Westerly, across Seven Springs Road (49.5 feet wide right-of-way) and along the southerly line of Tax Parcel number 13.-1-9, a distance of 219 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-9; thence,
14. Northerly, along the easterly line of Tax Parcel number 13.02-1-27, a distance of 151 feet, more or less, to the northeasterly corner of Tax Parcel number 13.02-1-27; thence,

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15. Westerly, along the northerly line of Tax Parcel numbers 13.02-1-27, 13.02-1-26, and 13.02-1-92, a distance of 942 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-8.121; thence,
16. Northerly, along an westerly line of Tax Parcel number 13.-1-8.121, a distance of 893 feet, more or less, to the northerly corner of the Tax Parcel number 13.02-1-92; thence,
17. Southwesterly, along the easterly line of Tax Parcel number 13.-1-108, a distance of 3,260 feet, more or less, to the point of beginning.

All as shown on a map prepared by the Town of Batavia entitled, "Oakwood Hills Storm Sewer District Map – Oakwood Hills Subdivision," dated 3/2018. The Town of Batavia, Oakwood Hills Storm Sewer District, as described above, contains approximately 105.4 acres of land.

**Creation of the Batavia Bethany Townline Road Water District SEQR** was completed and reviewed.

**RESOLUTION NO. 89:**

Deputy Supervisor Underhill offered the following:

**TOWN OF BATAVIA**

**CREATION OF THE BATAVIA BETHANY TOWNLINE ROAD WATER DISTRICT**

**SEQR RESOLUTION**

**RESOLVED**, that in accordance with the New York State Environmental Quality Review regulations (SEQR), the Town Board of the Town of Batavia announces its intent to serve as Lead Agency to conduct an environmental review under Section 617.7 of the New York State Codes, Rules and Regulations (NYSCRR) of a project to establish the Town of Batavia Batavia Bethany Townline Road Water District. The creation of the proposed water district will allow for the extension of public water service along a portion of Batavia Bethany Townline Road. The water system improvements will eventually involve the installation of approximately 4,400 l.f. of watermain connecting to existing watermains on either end.

**FURTHER RESOLVED**, that the Town Board has determined that the proposed action is an "Unlisted Action" as defined under SEQR.

**FURTHER RESOLVED**, that the Town Board, in its capacity of Lead Agency, has caused to be prepared an environmental assessment of the significance of potential environmental impact of the above-listed action. The Town Board hereby accepts the environmental assessment of the proposed project prepared by the Town of Batavia Engineering Department, dated March 16, 2018. The Town Board further declares that, based on the environmental assessment 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:** Councilwoman Michalak

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

**RESOLUTION NO. 90:**

Supervisor Post offered the following:

**ORDER FOR PUBLIC HEARING ON ESTABLISHMENT OF  
BATAVIA-BETHANY TOWNLINER ROAD WATER DISTRICT**

**WHEREAS**, the Town Board of the Town of Batavia, New York, has duly adopted a Resolution directing the Supervisor of the Town of Batavia to file a Map, Plan and Report for providing the facilities, improvements or services in a portion of the Town of Batavia where a water district is proposed to be established; and said Map, Plan and Report has been filed in the office of the Town Clerk of the Town of Batavia on March 7, 2018; and

**WHEREAS**, a “Petition to Request Water District” was filed in the Batavia Town Clerk’s Office on March 12, 2018, signed by the required number of property owners within the proposed district, namely, pursuant to the latest completed assessment roll of the Town of Batavia, the owners of taxable real property located in the proposed Batavia Bethany Townline Road Water District owning in the aggregate at least one-half of the assessed valuation of all of the taxable real property of the proposed Water District; and also constituting the signatures of resident owners who own taxable real property aggregating at least one-half of the assessed valuation of all of the taxable real property of the proposed Water District owned by residents, and

**WHEREAS**, the Town Board believes that it would be in the best interest of the residents of the proposed water district to create the proposed District, and

**WHEREAS**, pursuant to the authority of Article 12-A of the New York State Town Law, the Town Board does intend to form proposed Batavia-Bethany Townline Road Water District, pursuant to the said Map, Plan and Report, subject to holding a Public Hearing, and

**WHEREAS**, the boundaries of the proposed Water District are as set forth on **EXHIBIT A** attached hereto, and

**WHEREAS**, the improvements proposed consists of the construction and installation of approximately 4,400 linear feet of eight (8) inch water main along portions of Batavia-Bethany Townline Road; together with all related right-of-way costs, site work and other ancillary work, including hydrants, valves, apparatus, and other improvements and costs incidental thereto (referred to herein as “water improvement”), and

**WHEREAS**, the maximum amount proposed to be expended for such water improvement is \$230,400, which is planned to be financed through grants and/or bonded indebtedness at an interest rate of 3.0% for a 38 year term in an amount not to exceed \$126,800, offset by any funds received from the United States of America, and

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**WHEREAS**, the proposed annual debt service (assuming 6 units) is estimated to be approximately \$940.00 per typical property user in the proposed district, which is a single family home, and

**WHEREAS**, a typical household uses 61,000 gallons of water per year and the estimated cost of the water to be purchased by the water district's users is a total of 5.36 per 1,000 gallons used; thereby the average household can expect to additionally pay approximately \$327.00 per year for water purchase above and beyond the debt service, and

**WHEREAS**, based upon the foregoing estimates, the total annual cost of the typical property in the proposed district is estimated to be \$1267.00 per year, and

**WHEREAS**, payment of the debt service will be made by levy and collection of special assessments from the several lots and parcels of lands within the water district, which the Town Board shall determine and specify to be specially benefited thereby, so much upon and from each as such shall be in just proportion of the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds, as the same shall become due and payable, and

**WHEREAS**, each property will also have to pay for service from their home to the road right-of-way, incurring estimated one-time costs of approximately \$8.00-\$20.00 per linear feet of pipe for a service line; plus potential well abandonment or separation charges; as well as any internal plumbing charges, and

**WHEREAS**, the Map, Plan and Report describing such improvements is on file in the office of the Town Clerk of the Town of Batavia and available for public inspection, and

**WHEREAS**, that based upon the total estimated annual cost to the typical property in the proposed district of \$1267.00, the Town Board has heretofore caused to be prepared and filed for public inspection with the Town Clerk, a detailed explanation of how such estimates were computed; and further that the cost of the construction of the Water District to such Typical Property is above Average Estimated Cost to the Typical Properties for the establishment of similar types of districts as computed by the State Comptroller, and therefore, the New York State Comptroller's approval is required for such Water District.

**NOW, THEREFORE BE IT**

**ORDERED**, that the Town Board of the Town of Batavia, New York, shall meet at the Town Hall, located at 3833 West Main Street Road, Batavia, New York on the 18<sup>th</sup> day of April, 2018, at 7:20 p.m. for the purpose of conducting a public hearing on the proposal to establish said Water District with the improvements specified herein, at which time and place all persons interested in the subject thereof may be heard concerning the same, and it is further

**ORDERED**, that the Town Clerk of the Town of Batavia is hereby authorized and directed to publish a copy of this Order in **The Daily News**, to post a copy of the same on the signboard of the Town of Batavia, the first publication and said posting to be not less than ten (10) nor more than twenty (20) days before the day designated herein for said public hearing as aforesaid; and mail by first class mail to

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each owner of the taxable real property located within the proposed Water District a notice of such public hearing, and be it further

**ORDERED**, that the Town Clerk file a certified copy of this Order with the Comptroller of the State of New York on or about the date of publication of a copy of this Order.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (5-0)**

**EXHIBIT A**  
**TOWN OF BATAVIA**  
**PROPOSED BETHANY TOWNLINE WATER DISTRICT**

The boundary of the proposed Town of Batavia, Bethany Townline Water District includes all that tract or parcel of land situated in the Town of Batavia, County of Genesee, State of New York, being described as follows:

Beginning at a point which is the northwesterly corner of Tax Parcel number 20.-1-98.21; thence,

1. Southerly, following the existing Shepard & Putnam Road Water District along a westerly line of Tax Parcel number 20.-1-98.21, a distance of 499 feet, more or less, to the northeasterly corner of Tax Parcel number 20.-1-96; thence,
2. Westerly, following the existing Shepard & Putnam Road Water District along the northerly line of Tax Parcel number 20.-1-96, a distance of 1,159 feet, more or less, to the intersection of the northerly line of Tax Parcel number 20.-1-96 and an easterly boundary of the Shepard & Putnam Road Water District; thence,
3. Southerly, following the Shepard & Putnam Road Water District through the lands of Tax Parcel number 20.-1-96 and across Batavia-Bethany Townline Road (49.5 feet wide right-of-way), a distance of 416 feet, more or less, to the intersection of the boundary of the existing Shepard & Putnam Road Water District and the centerline of Batavia-Bethany Townline Road; thence,
4. Easterly, along the centerline of the Batavia-Bethany Townline Road, a distance of 4,559 feet, more or less, to the intersection of the centerline of Batavia-Bethany Townline Road and the boundary of the existing Ellicott Street Road & Townline Road Water District; thence,
5. Northerly, following the existing Ellicott Street Road & Townline Road Water District across Batavia-Bethany Townline Road (49.5 feet wide right-of-way) and through the lands of Tax Parcel number 20.-1-32.113, a distance of 1,172 feet, more or less, to a turning point in the Ellicott Street Road and Townline Road Water District that is 500 feet westerly of Bethany Center Road and 500 feet southwestly of Ellicott Street Road; thence,
6. Northwestly, following the existing Ellicott Street Road & Townline Road Water District through the lands of Tax Parcel number 20.-1-32.113, a distance of 679 feet, more or less, to the intersection of a southwestly boundary of the Ellicott Street Road & Townline Road Water District and the northwesterly line of Tax Parcel number 20.-1-32.113; thence,
7. Southwestly, following the existing Ellicott Street Road & Townline Road Water District along the northwesterly line of Tax Parcel number 20.-1-32.113, a distance of 618 feet, more or less, to the southerly corner of Tax Parcel number 20.-1-36.1; thence,

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8. Northerly, following the existing Ellicott Street Road & Townline Road Water District along an easterly line of Tax Parcel number 20.-1-44.111, a distance of 848 feet, more or less, to the intersection of the easterly line of Tax Parcel number 20.-1-44.111 and a southwesterly boundary of the Ellicott Street Road & Townline Road Water District; thence,
9. Northwesterly, following the existing Ellicott Street Road & Townline Road Water District along a line and parallel to, and 500 feet southwesterly from, the centerline of Ellicott Street Road, a distance of 616 feet, more or less, to intersection of the Ellicott Street Road and Townline Road Water District and the northwesterly line of Tax Parcel number 20.-1-44.111; thence,
10. Southwesterly, following the existing Ellicott Street Road & Townline Road Water District along the northwesterly line of Tax Parcel number 20.-1-44.111, a distance of 74 feet, more or less, to the southerly corner of Tax parcel number 20.-1-44.2; thence,
11. Westerly, following the existing Ellicott Street Road & Townline Road Water District along a northerly line of Tax Parcel number 20.-1-44.111, a distance of 714 feet, more or less, to a northwesterly corner of Tax Parcel number 20.-1-44.111; thence,
12. Southerly, following the Ellicott Street Road & Townline Road Water District along the westerly line of Tax Parcel number 20.-1-44.111, a distance of 1,601 feet, more or less, to the northeasterly corner of Tax Parcel number 20.-1-98.21; thence,
13. Westerly, following the existing Ellicott Street Road & Townline Road Water District along the northerly line of Tax Parcel number 20.-1-98.21, a distance of 1,289 feet, more or less, to the point of beginning.

All as shown on a map prepared by the Town of Batavia entitled, "Bethany Townline Road Water District - Water System Improvements" dated 4/2014. The Town of Batavia, Bethany Townline Water District, as described above, contains approximately 134.2 acres of land.

**RESOLUTION NO. 91:**

Councilwoman Michalak offered the following:

**RESOLUTION FOR REDUCTION OF SPEED LIMIT**  
**WEST MAIN STREET ROAD**

**WHEREAS**, residents residing on West Main Street Road have expressed concern regarding unsafe traffic conditions on West Main Street Road (NYS Route5) from 3817 West Main Street Road extending west to 3269 West Main Street Road; and

**WHEREAS**, a request has been made to reduce the speed limit from 55 MPH to 45 MPH and to make any other safety improvements necessary (email letter attached).

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby petitions the Genesee County Highway Department and the New York State Department of Transportation by way of this resolution to consider a speed reduction on West Main Street Road (NYS Route 5) from 3817 West Main Street Road extending west to 3269 West Main Street from 55 MPH to 45 MPH and to make any other safety improvements necessary.

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**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (5-0)**

**SUSPEND THE RULES**-Motion Councilman Zambito, second Councilwoman White to suspend the rules to introduce an additional resolution.

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

**MOTION CARRIED by unanimous vote (5-0)**

**RESOLUTION NO. 92:**

Councilman Zambito offered the following:

**RESOLUTION TO AMEND RESOLUTION NO. 177 OF 2017**  
**ELLICOTT TRAIL PROJECT**  
**APPROVAL OF RIGHT OF WAY PURCHASE AMOUNTS**

**WHEREAS**, on October 18, 2017 the Town of Batavia adopted resolution no. 177 entitled “Ellicott Trail Project Approval of Right of Way Purchase Amounts” and

**WHEREAS**, property appraisals were completed for the required property acquisitions for the project in September 2017, with a revised appraisal review in March 16, 2018 by R.K. Hite & Company, Incorporated for two parcels (revised review attached); and

**WHEREAS**, the Assistant Town Engineer reviewed and recommends amending the Determination of the Just Compensation amounts with administration fees for the Right of Way acquisitions for two parcels, tax parcel #85.013-1-29 and 85.013-1-23.1.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby approves the Just Compensation amended amounts and administrative fees for the following two parcels for the right -of- way acquisitions on the Ellicott Trail Project:

<b>Map No.</b>	<b>Tax Parcel ID</b>	<b>Property Owner</b>	<b>Amended Appraisal Amount</b>	<b>Recommended Amend just Compensation</b>	<b>Administration Fee</b>	<b>Total Amended Just Compensation/ Administration Fee</b>
11	85.013-1-29	1515 Management Company, Inc.	\$40,000.00	\$40,000.00	\$5,000.00	\$45,000.00
13	85.013-1-23.1	665 East Main St., LLC	\$20,800.00	\$20,800.00	\$5,200.00	\$26,000.00

and be it further

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**RESOLVED**, the Supervisor is hereby authorized and directed to accept and sign the Just Compensation/Administration letters, copies of which are annexed hereto and made a part of the minutes.

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

**RESOLUTION NO. 93:**

Councilwoman White offered the following:

**ACQUIRE AN INTEREST IN A PARCEL OF LAND  
FOR ELLICOTT TRAIL PROJECT  
TIME WARNER CABLE NORTHEAST LLC**

**WHEREAS**, the Town of Batavia is seeking to acquire an interest in a parcel of land from Time Warner Cable Northeast LLC for the purpose of the Ellicott Trail Project, and

**WHEREAS**, a purchase agreement for a portion of parcel # 85.013-1-45.2 has been prepared and executed by Time Warner Cable Northeast LLC at a cost of \$13,200.00; and

**WHEREAS**, independent appraisals to determine that the Town is paying a fair amount for the interest in these parcels was conducted by R K Hite & Company, Incorporated, and

**WHEREAS**, the Attorney for the Town and the Assistant Town Engineer have reviewed the Purchase Agreement for the interest in this and recommends the Town Board approve said agreement.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby approves the Purchase Agreement to acquire a portion of parcel # 85.013-1-45.2 from Time Warner Cable Northeast LLC, at a cost of \$13,200.00, a copy of which is annexed hereto and made a part of the minutes, and be it further

**RESOLVED**, that the Town Supervisor is hereby authorized and directed to sign all documents necessary to secure the property for the Ellicott Trail Project and to record the documents in the Genesee County Clerk's Office.

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

**RESOLUTION NO. 94:**

Deputy Supervisor Underhill offered the following:

**ACQUIRE AN INTEREST IN A PARCEL OF LAND  
FOR ELLICOTT TRAIL PROJECT**

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**1515 MANAGEMENT COMPANY INCORPORATED**

**WHEREAS**, the Town of Batavia is seeking to acquire an interest in a parcel of land from 1515 Management Company Incorporated for the purpose of the Ellicott Trail Project, and

**WHEREAS**, a purchase agreement for a permanent easement for a portion of parcel # 85.013-1-29 has been prepared and executed by 1515 Management Company Incorporated at a cost of \$45,000.00; and

**WHEREAS**, independent appraisals to determine that the Town is paying a fair amount for the interest in these parcels was conducted by R K Hite & Company, Incorporated, and

**WHEREAS**, the Attorney for the Town and the Assistant Town Engineer have reviewed the Purchase Agreement for the interest in this and recommends the Town Board approve said agreement.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby approves the Purchase Agreement to acquire a permanent easement from 1515 Management Company Incorporated, for a portion of parcel # 85.013-1-29 at a cost of \$45,000.00, a copy of which is annexed hereto and made a part of the minutes, and be it further

**RESOLVED**, that the Town Supervisor is hereby authorized and directed to sign all documents necessary to secure the property for the Ellicott Trail Project and to record the documents in the Genesee County Clerk's Office.

**Second by:** Councilwoman White

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 95:**

Supervisor Post offered the following:

**ACQUIRE AN INTEREST IN A PARCEL OF LAND  
FOR ELLICOTT TRAIL PROJECT  
665 EAST MAIN STREET, LLC**

**WHEREAS**, the Town of Batavia is seeking to acquire an interest in a parcel of land from 665 East Main Street, LLC for the purpose of the Ellicott Trail Project, and

**WHEREAS**, a purchase agreement for a temporary and permanent easement for a portion of parcel # 85.013-1-23.1 has been prepared and executed by 665 East Main Street, LLC at a cost of \$26,000.00; and

**WHEREAS**, independent appraisals to determine that the Town is paying a fair amount for the

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interest in these parcels was conducted by R K Hite & Company, Incorporated, and

**WHEREAS**, the Attorney for the Town and the Assistant Town Engineer have reviewed the Purchase Agreement for the interest in this and recommends the Town Board approve said agreement.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby approves the Purchase Agreement to acquire a temporary and permanent easement from 665 East Main Street, LLC, for a portion of parcel # 85.013-1-23.1 at cost of \$26,000.00, a copy of which is annexed hereto and made a part of the minutes, and be it further

**RESOLVED**, that the Town Supervisor is hereby authorized and directed to sign all documents necessary to secure the property for the Ellicott Trail Project and to record the documents in the Genesee County Clerk's Office.

**Second by:** Councilwoman White

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

**APPROVED by unanimous vote (5-0)**

**Abstract No. 3-2018:** Motion Councilman Zambito, second Councilwoman Michalak to authorize the Supervisor to pay the following vouchers:

General	\$52,761.51
Highway	14,357.44
Sewer No. 1	4,612.20
Sewer No. 2	5,191.13
Water	45,262.37
Kings PS Imp	9,948.00
Southwest Water	5,534.00
Ellicott Trail	93,066.85
<b>Total</b>	<b>\$230,733.50</b>

Check numbers 21053 thru 21118, ACH: \$32,566.25, Online: \$10,083.28

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

**MOTION CARRIED by unanimous vote (5-0)**

**DEPARTMENT REPORTS:**

**The Supervisor reported on the following departments:**

**Highway-** Preparing to do Spring work, restorations and maintaining the highways. The Supervisor commended the highway department.

**Water/Wastewater-**Tending to water breaks, ongoing maintenance and preparing for meter readings.

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**Building** – Read the Building Inspectors Report-Attached  
**Historian**- Read the Historian Report-Attached

**Supervisor’s Report:**

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

**COMMUNICATIONS:**

**The Town Clerk reported on the following:**

**February Town Clerk** monthly report collected a total of \$2,478.94, remitted \$2,332.22 to the Supervisor for the Local Share.

**2018 Town/County Taxes**- February Tax Collection collected a total of \$119,374.58, remitted \$1,181.91 to the Supervisor for the Tax Penalties and the remainder was remitted to the Genesee County Treasurer

**Training**- Southern Tier West Regional Planning & Development, Spring 2018 Local Government Workshop

**ADJOURNMENT:**

Motion Councilman Zambito, second Councilwoman White to adjourn the Regular Town Board Meeting at 7:52 P.M.

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

**MOTION CARRIED by unanimous vote (5-0)**

Respectfully submitted,

Teressa M. Morasco  
Town Clerk