

**JULY 19, 2017**  
**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 7:00 P.M.

**June 21, 2017 Public Hearing-Local Law 2, Amending the Town of Batavia Parks Rules and Regulations Law, June 21, 2017 Public Hearing-Joint Increase & Improvement of Facilities of the Town of Batavia Sewer District No. 2 & West Main St Rd Sewer District, and June 21, 2017 Public Hearing-Proposed Establishment of 2017 North Commerce Sewer Improvement Area:**

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

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

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

**RESOLUTION NO. 133:**

Councilwoman White offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW NO. 3 of 2017  
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 Facility Use Regulations’, also known as “Local Law No. 3 of 2017 “A Law Enacting Facility Use Regulations”.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York that proposed Local Law No. 3 of 2017 entitled "A Law Enacting Facility Use Regulations", 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 August 16, 2017, and that a public hearing be held before this Town Board on the 16<sup>th</sup> day of August 2017 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

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

**NOTICE OF PUBLIC HEARING BY THE TOWN BOARD**  
**OF THE TOWN OF BATAVIA, NEW YORK**  
**TO CONSIDER ADOPTING A PROPOSED LOCAL LAW**

**PUBLIC NOTICE** is hereby given that there has been presented to the Town Board of the Town of Batavia, New York on the 19<sup>th</sup> day of July, 2017, proposed Local Law No. 3 of 2017 entitled "A Law Enacting Facility Use Regulations". Said Local Law will allow the Town of Batavia to establish general parameters and procedures relating to usage of the Town Facilities subject to applicable laws and regulations and the interpretations of the Town Board.

**PLEASE TAKE FURTHER NOTICE** that on 16<sup>th</sup> day of August, 2017, at 7:00 o'clock in the afternoon of that day the Town Board of the Town of Batavia, New York will conduct a public hearing at the Batavia Town Hall located at 3833 West Main Street Road, in the Town of Batavia, New York, for the purpose of considering the advisability of enacting said proposed Local Law, at which time and place all persons interested will be heard.

A copy of said proposed Local Law is on file at the office of the Batavia Town Clerk, 3833 West Main Street Road, Batavia, New York and is open for inspection during regular Office hours.

Dated: Batavia, New York  
July 19, 2017

\_\_\_\_\_  
Teresa M. Morasco, Town Clerk  
Town of Batavia, New York

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.)

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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. 3 of the year 2017.

A local law known as A Law Enacting Facility Use Regulations  
(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, INTENT AND AUTHORIZATION**

The Town Board and the Town of Batavia does hereby ordain and enact this local law, entitled A Law Enacting Facility Use Regulations, pursuant to authority and provisions of Section 10 of the Municipal Home Rule Law. The intent of this law is to establish the general parameters and procedures relating to usage of the Town facilities subject to applicable laws and regulations and the interpretations of the Town Board.

ARTICLE II: **TOWN OF BATAVIA FACILITY REGULATIONS**

**§ 1. Application required.**

- A. Any and all usage of the Town of Batavia Buildings by outside organizations not affiliated with the Town of Batavia shall be permitted upon written application filed with the Town Clerk, subject to compliance with the requirements of this policy.
- B. Applications for use shall be made no sooner than sixty days prior to the applied-for date of occupancy.

**§ 2. Permitted uses of facilities.**

The Town will permit the use of the Town's facilities and its grounds, when not in use for Town business, by outside organizations (hereinafter "Users") for any of the following purposes:

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- A. For instruction in any branch of education, learning or the arts.
- B. For meetings of community organizations, volunteer or otherwise, which serve Town residents.
- C. For meetings of other federal, state and local governments, including veterans' organizations.

**§ 3. Exits; occupancy.**

The Town and Users shall keep all exits clear at all times, and the authorized maximum occupancy posted shall be strictly observed. All Users shall inform participants of the location of exits and emergency response equipment.

**§ 4. Premises to be kept clean.**

Users shall keep the grounds and facilities clean and neat, and Users shall be responsible for any loss or damage to the demised premises and its equipment as well as the avenues of ingress and egress thereto. Upon completion of the use of the grounds or facilities by the User, the same are to be returned to the same condition as existed prior to the occupancy by the User.

**§ 5. Responsibility for lost or stolen articles.**

The Town of Batavia will not be held responsible for any articles lost or stolen during the occupancy of the User.

**§ 6. Maintenance of order.**

The User assumes the responsibility for keeping and maintaining order while occupying Town grounds and/or facilities. User shall immediately vacate the grounds or facilities upon a violation of any law or this policy, the purpose of which is to preserve the public peace and good order, by the User and/or its participants, guests or invitees.

**§ 7. Procedures, rules and fees.**

Fees, deposit requirements, procedures and rules for the use of Town facilities pursuant to this policy shall be set and/or amended from time to time by the Town Board, by resolution.

**§ 8. Costs and damages to be charged to applicant.**

All costs resulting from User's failure to clean or return the premises to its pre-occupancy condition as required by paragraph 4 of this policy, or resulting from damage to the premises by the User or its participants, guests or invitees, shall be charged against the security deposit. If the deposit is not sufficient to cover all such costs, User shall reimburse the Town for same within 30 days after demand by the Town. Failure of the User to reimburse the Town after due demand will result in immediate termination of User's right to use the premises, and Town may commence

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an action in a court of competent jurisdiction to recover monetary losses resulting from User's failure to reimburse the Town. In the event the Town must sue User as above, User agrees to be responsible for all costs of the action, including but not limited to reasonable attorney's fees.

**§ 9. Garbage and trash. Carry In and Carry Out**

All garbage and trash created by Users shall not be left behind, dumped or disposed of on Town property.

**§ 10. General Liability Insurance required.**

Users shall obtain, at said User's expense, general liability insurance in form, content and amount satisfactory to the Town of Batavia, for protection against claims of personal injuries, including death or damage to property arising out of the use of any Town facility. Said insurance shall be issued by a reputable insurance company, authorized to do business in the State of New York, and said policy shall also name the Town of Batavia as an additional insured. The policy shall provide that in the event of cancellation or modification the insurer shall provide the Town with at least 10 days' written notice of such cancellation or modification. In no event, shall such liability insurance exclude from coverage any municipal operations or municipal property.

**§ 11. Indemnification of Town.**

User agrees to indemnify and hold harmless the Town of Batavia against any and all liability, loss, damage, suit, charge, attorney's fees, judgment, expenses of whatever kind or nature which the Town may directly or indirectly incur or be required to pay by reason or in consequence of the wrongful or negligent act or omission of the User, its agents employees or contractors. If a claim or action is made or brought against the Town for which the users may be responsible hereunder in whole or in part, then User shall be notified and shall handle and assume the defense of same.

**§ 12. Applicability.**

This policy shall apply to Town Facilities including the Town Hall and the appurtenant real property; highway garage; and any other town-owned property, with the exception of public parks, which are specifically excluded from the application of this policy.

ARTICLE III:            **EFFECTIVE DATE**

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

ARTICLE IV:           **SEVERABILITY**

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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 2017, of the ~~(County)~~ (City) (Town) ~~(Village)~~ of Batavia, New York was duly passed by the Town Board on August 16, 2017, 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 \_\_\_\_\_ 2017, 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.)**

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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 Morasco  
Town Clerk, Town of Batavia

\_\_\_\_\_

Date: \_\_\_\_\_, 2017

**(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

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

**RESOLUTION NO. 134:**

Deputy Supervisor Underhill offered the following:

**KIWANIS PARK DONATION**

**RESOLVED**, the Batavia Town Board hereby accepts the following donations for use of the Kiwanis Park:

\$25.00 from Grace Stewart for park use on July 8, 2017

\$25.00 from Elizabeth Peplin, Accent Havanese for park use on July 16, 2017

**Second by:** Councilwoman White

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

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

**RESOLUTION NO. 135:**

Supervisor Post offered the following:

**PARTICIPATION IN THE 2020 CENSUS  
LOCAL UPDATE OF CENSUS ADDRESSES**

**WHEREAS**, 2020 Census is fast approaching and the Census Bureau relies on a complete and accurate address list to reach every living quarters and associated population for inclusion in the census; and

**WHEREAS**, Local Update of Census Addresses (LUCA) is the only opportunity for local governments to review and comment on the United States Census Bureau's residential address list prior to the 2020 Census; and

**WHEREAS**, participation helps to ensure an accurate decennial census count of the community, helps our community plan for future needs, as well as helps with the distribution of federal funds for infrastructure, programs, and services; and

**WHEREAS**, the Genesee Finger Lakes Regional Planning Council (GFLRPC) is coordinating the LUCA process for this region.

**NOW, THEREFORE, BE IT RESOLVED** the Batavia Town Board agrees to participate in the in the 2020 Census LUCA process.

**Second by:** Councilwoman Michalak

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

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

**RESOLUTION NO. 136:**

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Councilwoman Michalak offered the following:

**ONLINE WATER/WASTEWATER PAYMENT MODULE  
BUSINESS AUTOMATED SYSTEMS SUPPORT AND SERVICES**

**WHEREAS**, the Water/Wastewater Clerk has had many requests from Water/Wastewater users for online payment services; and

**WHEREAS**, Business Automation Services, Incorporated, (BAS) Clifton Park, New York submitted a proposal for Utility Billing Online Module and Software/Services to accept online payments; and

**WHEREAS**, there will be no cost for the online module, system configuration and training. The annual fee for hosting, maintenance and support services is \$600.00 (quote attached); and

**WHEREAS**, there are convenience fees associated with this service that will be paid by the consumers that utilize it.

**NOW, THEREFORE, BE IT RESOLVED** the Batavia Town Board hereby authorizes BAS to provide a Utility Billing Online Module and Services, as proposed, and be it

**FURTHER RESOLVED**, a Town checking account separate from the money market account must be established to account for the online payments; and be it

**FURTHER RESOLVED**, the Supervisor is authorized to execute the necessary documents to provide this service; and be it

**FURTHER RESOLVED**, the expenditure will be appropriated from line items SW8310.400 (60%), SS18110.400 (20%) and SS28110.400 (20%)

**Second by:** Councilman Zambito

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

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

**Abstract No. 7-2017:** Motion Deputy Supervisor Underhill, second Councilwoman White to authorize the Supervisor to pay the following vouchers:

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<u>General</u>	\$87,930.44
Highway	124,606.65
Sewer No. 1	6,820.11
Sewer No. 2	9,135.01
Water	203,569.09
Sewer Capacity	1,991.14
Ellicott Trail	2,397.88
Kings Pump Station- Pumps	85.20
Kings Pump Station- Force	86.40
<b>Total</b>	<b>\$436,621.92</b>

Check numbers 19926-19929, 19931-1990 Online: \$8,494.52

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

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

**DEPARTMENT REPORTS:**

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

**Building:** Supervisor read Building Inspectors report

**Highway:**

**Paving-** Paving various Town roads.

**Ditches and Erosion-** Approximately 75% complete in reclaiming ditches and erosions from the flooding.

**Water/Wastewater:**

**Lewiston Road Pump Station-**Completing Lewiston Road Pump Station overhaul

**Repairs-** Working on other necessary repairs on the water/wastewater system

**Supervisor's Report:**

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

**COMMUNICATIONS:**

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

**June Town Clerk** monthly report collected a total of \$7,330.05, remitted \$6,738.63 to the Supervisor for the Local Share.

**NYS Department of Public Service-** Received Letter from NYS Department of Public Service Notice of Public Hearing for Niagara Mohawk Power Corporation proposed rate increase. The hearing is in Buffalo on August 1.

**ADJOURNMENT:**

Motion Councilman Zambito, second Councilwoman White to adjourn the Regular Town Board Meeting at 7:15 P.M.

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

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

Respectfully submitted,

Teressa M. Morasco  
Town Clerk