

**APRIL 18, 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
Jim Krencik, Daily News Reporter
Karen and Tony Crupi
Michelle Auricchio
Leslie Tanner
Joann Grice

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

Public Hearing Local Law 1 of 2018- The Supervisor called the Public Hearing to Order for Local Law 1 of 2018 - Regulating and Licensing Peddlers & Solicitors at 7:10 P.M. - Minutes for public hearing entered separately.

Public Hearing Local Law 2 of 2018- The Supervisor called the Public Hearing to Order for Local Law 2 of 2018 - Amending Vehicle & Traffic Law at 7:11 P.M. - Minutes for public hearing entered separately.

Public Hearing Local Law 3 of 2018- The Supervisor called the Public Hearing to Order for Local Law 3 of 2018 - Amending Road Specifications Law at 7:12 P.M. - Minutes for public hearing entered separately.

Public Hearing Establishment of Oakwood Hills Drainage District-The Supervisor called the Public Hearing to Order for the Establishment of Oakwood Hills Drainage District at 7:15 P.M. - Minutes for public hearing entered separately.

Public Hearing Establishment of Batavia-Bethany Townline Road Water District-The Supervisor called the Public Hearing to Order for the Establishment of Batavia-Bethany Townline Road Water District at 7:25 P.M. - Minutes for public hearing entered separately.

March 21, 2018 Regular Town Board Meeting: Motion Councilman Zambito, second Councilwoman White to approve the minutes as written.

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

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RESOLUTION NO. 96:

Councilwoman White offered the following:

RESOLUTION ADOPTING LOCAL LAW No. 1 of 2018

WHEREAS, proposed Local Law No. 1 of 2018 of the Town of Batavia entitled " A Local Law Regulating and Licensing Peddlers and Solicitors with in the Town of Batavia ", which proposed Local Law in its final form was presented to the Town Board at the meeting held on March 21, 2018, and a copy thereof was kept with the Town Clerk and copies both laid upon the desks of the members of said Town Board Members and mailed to each member of the Town Board Members not in attendance at said meeting; and

WHEREAS, a public hearing on the advisability of enacting said proposed Local Law was held on April 18, 2018, before this Town Board, pursuant to public notice duly published in The Daily News according to law, at which time all interested persons were heard; and

WHEREAS, the Town Board of the Town of Batavia, New York is of the opinion that adoption of said proposed Local Law No. 1 of 2018 is in the best interest of the Town of Batavia, New York.

NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Batavia, New York that said proposed Local Law No. 1 of 2018 entitled "A Local Law Regulating and Licensing Peddlers and Solicitors with in the Town of Batavia" be and the same hereby is adopted; and

BE IT FURTHER RESOLVED, that a certified copy of said Local Law No. 1 of 2018 be filed with the New York State Secretary of State in accordance with Law.

Second by: Deputy Supervisor Underhill

Ayes: White, Underhill, Michalak, Zambito, 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

Local Law No. _____ 1 _____ of the year 2018.

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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

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.

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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 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

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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.

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.

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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, 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.

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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.

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,

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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*.)

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)

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(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

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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. 97:

Deputy Supervisor Underhill offered the following:

RESOLUTION ADOPTING LOCAL LAW No. 2 of 2018

WHEREAS, proposed Local Law No. 2 of 2018 of the Town of Batavia entitled " A Local Law Amending the Town of Batavia Vehicle and Traffic Law ", which proposed Local Law in its final form was presented to the Town Board at the meeting held on March 21, 2018, and a copy thereof was kept with the Town Clerk and copies both laid upon the desks of the members of said Town Board Members and mailed to each member of the Town Board Members not in attendance at said meeting; and

WHEREAS, a public hearing on the advisability of enacting said proposed Local Law was held on April 18, 2018, before this Town Board, pursuant to public notice duly published in The Daily News according to law, at which time all interested persons were heard; and

WHEREAS, the Town Board of the Town of Batavia, New York is of the opinion that adoption of said proposed Local Law No. 2 of 2018 is in the best interest of the Town of Batavia, New York.

NOW, THEREFORE, BE IT

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RESOLVED, by the Town Board of the Town of Batavia, New York that said proposed Local Law No. 2 of 2018 entitled "A Local Law Amending the Town of Batavia Vehicle and Traffic Law" be and the same hereby is adopted; and

BE IT FURTHER RESOLVED, that a certified copy of said Local Law No. 2 of 2018 be filed with the New York State Secretary of State in accordance with Law.

Second by: Councilwoman Michalak
Ayes: Underhill, Michalak, Zambito, White, 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 Batavia, Genesee County, New York
Town
~~Village~~

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

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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.”
- 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:

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<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.

(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.

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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 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

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REGULAR TOWN BOARD MEETING

Town Attorney
~~County~~
~~City~~ of Batavia
Town
~~Village~~

Date: _____

RESOLUTION NO. 98 :

Supervisor Post offered the following:

RESOLUTION ADOPTING LOCAL LAW No. 3 of 2018

WHEREAS, proposed Local Law No. 3 of 2018 of the Town of Batavia entitled " A Local Law Amending the Town of Batavia Road Specifications Law ", which proposed Local Law in its final form was presented to the Town Board at the meeting held on March 21, 2018, and a copy thereof was kept with the Town Clerk and copies both laid upon the desks of the members of said Town Board Members and mailed to each member of the Town Board Members not in attendance at said meeting; and

WHEREAS, a public hearing on the advisability of enacting said proposed Local Law was held on April 18, 2018, before this Town Board, pursuant to public notice duly published in The Daily News according to law, at which time all interested persons were heard; and

WHEREAS, the Town Board of the Town of Batavia, New York is of the opinion that adoption of said proposed Local Law No. 3 of 2018 is in the best interest of the Town of Batavia, New York.

NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Batavia, New York that said proposed Local Law No. 3 of 2018 entitled "A Local Law Amending the Town of Batavia Road Specifications Law" be and the same hereby is adopted; and

BE IT FURTHER RESOLVED, that a certified copy of said Local Law No. 3 of 2018 be filed with the New York State Secretary of State in accordance with Law.

Second by: Councilman Zambito

Ayes: Post, Zambito, White, Underhill, Michalak

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

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REGULAR TOWN BOARD MEETING

Town
Village

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:

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at the end of this specification

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.

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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)

Teressa M. Morasco
Town Clerk, Town of Batavia

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REGULAR TOWN BOARD MEETING

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. 99:

Councilwoman Michalak offered the following:

RESOLUTION OF THE TOWN OF BATAVIA, NEW YORK, ADOPTED APRIL 18, 2018, ESTABLISHING OAKWOOD HILLS DRAINAGE DISTRICT IN SAID TOWN, AND PROVIDING THAT SUCH RESOLUTION SHALL BE SUBJECT TO PERMISSIVE REFERENDUM.

Recitals

WHEREAS, the Town Board of the Town of Batavia (herein called "Town Board" and "Town" respectively) in the County of Genesee, New York has heretofore duly caused the Town Engineer, duly licensed by the State of New York, to prepare a map, plan and report for a proposed Oakwood Hills Drainage District (the "District"), in the Town, consisting of the repair and maintenance of improvements have already been completed by the project developer, consisting 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"), including land or rights in land; which, map, plan and report have been duly filed in the office of the Town Clerk of the Town for public inspection; and

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WHEREAS, pursuant to the Order duly adopted on March 21, 2018, the Town Board has determined to proceed with the proposed establishment of the District and adopted an Order reciting a description of the boundaries of the District in a manner sufficient to identify the lands included therein as in a deed of conveyance, the improvements proposed, the maximum amount proposed to be expended for the construction of water improvements in connection with the District, the proposed method of financing to be employed, the fact that a map, plan and report describing the same are on file in the Town Clerk's Office for public inspection and specifying April 18, 2018, at 7:15 o'clock P.M. (Prevailing Time) as the time when, and the Batavia Town Hall, located at 3833 West Main Street Road, Batavia, New York, in the Town, as the place where, the Town Board would meet to consider the establishment of the District, and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by Law: and

WHEREAS, certified copies of such Order were duly published and posted pursuant to the provisions of Article 12-A of the Town Law and a Notice of Public Hearing was mailed by first class mail to each owner of taxable real property in the District; and

WHEREAS, the Town Board has given due consideration to the impact that the District may have on the environment and on the basis of such consideration, the Town Board has found that no substantial adverse environmental impact will be caused by such District and a Negative Declaration has been issued; and

WHEREAS, the Town Board and the Town will comply in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law; and

WHEREAS, a Public Hearing in the matter was duly held by the Town Board on said 18th day of April, 2018, commencing at 7:15 o'clock P.M. (Prevailing Time), at such Batavia Town Hall, at which all interested persons desiring to be heard were heard, and

WHEREAS, primary responsibility for maintenance of District improvements will be borne by a third-party homeowner's association, and the District will incur cost only to the extent the homeowner's association fails to maintain the improvements.

NOW, THEREFORE, upon the evidence adduced at such Public Hearing, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF BATAVIA, IN THE COUNTY OF GENESEE, NEW YORK, AS FOLLOWS:

Section 1. It is hereby determined that:

(a) the Order Calling Public Hearing was published and posted as required by Law, and is otherwise sufficient;

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(b) the Notice of Public Hearing was mailed by first class mail to each owner of taxable real property in the District;

(c) all the property and property owners included within the proposed District hereinabove referred to in the recitals hereof are benefited thereby;

(d) all the property and property owners benefited are included within the limits of the proposed District; and

(e) it is in the public interest to establish the District.

Section 2. The establishment of the District is hereby approved, as hereinafter described, and said District shall be designated and known as Oakwood Hills Drainage District, in the Town of Batavia, and shall be bounded and described as more particularly described in annexed Exhibit "A".

Section 3. 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 project developer, with no direct initial capital cost to the residents of the Drainage District, and that funding for any further improvements required in the future, and any costs associated with the repair and maintenance of the district improvements, is to be provided by the levy and collection of special assessments from the several lots and parcels of land within such Benefited Area which the Town Board shall determine to be especially benefited by said Drainage District, so much upon and from each as shall be in just proportion to the amount of benefit which the Drainage District shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable.

Section 4. The permission of the State Comptroller is not required with respect to the District because the estimated cost of the District to the Typical Property (as defined in the Town Law) is below the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts, as computed by the State Comptroller, and a full application will not need to be submitted to the State Comptroller's Office for approval.

Section 5. This resolution is subject to permissive referendum and the Town Clerk of the Town is hereby authorized and directed within ten (10) days after the adopted resolution, to cause to be published at least once in the "Batavia Daily News" a newspaper having a general circulation in the Town of Batavia, and hereby designated as the official newspaper of the Town for such publication, and posted on the sign board of the Town, a Notice which shall set forth an abstract of said foregoing resolution which shall be in substantially the following form:

LEGAL NOTICE

TOWN OF BATAVIA, NEW YORK

PLEASE TAKE NOTICE that on April 18, 2018, the Town Board of the Town of Batavia, in the

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County of Genesee, New York, adopted a resolution entitled:

“Resolution of the Town of Batavia, New York, Establishing Oakwood Hills Drainage District, in said Town, and providing that such resolution shall be subject to permissive referendum,”

an abstract of such resolution, concisely stating the purpose and effect thereof, being as follows:

FIRST: RECITING that the Town Board of the Town of Batavia (“Town Board” and “Town”, respectively), New York, has heretofore duly caused the preparation of a general map, plan and report for the proposed Oakwood Hills Drainage District, in the Town (the “District”) consisting of the repair and maintenance of improvements already completed by the project developer, consisting 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”); which map, plan and report have been duly filed in the office of the Town Clerk of Town public inspection; that an Order was adopted on March 21, 2018, reciting a description of the boundaries of the proposed District in a manner sufficient to identify the lands included therein as in a deed of conveyance, the improvements proposed, the maximum amount proposed to be expended therefore, the proposed method of financing, the fact that a map, plan and report describing the same are on file in the Town Clerk’s Office for public inspection, and specifying the time and place of a Public Hearing to hear all persons interested in the subject thereof concerning the same; that copies of such Order have been duly published and posted, that all environmental laws and regulations will be complied with, and that such hearing has been duly held on April 18, 2018, at the time and place specified;

SECOND: RESOLVING AND DETERMINING that (a) the Order Calling Hearing was published and posted as required by Law and is otherwise sufficient, (b) the Notice of Public Hearing was mailed by first class mail to each owner of taxable real property in the District (c) all the property and property owners within the proposed district are benefited thereby, (d) all the property and property owners benefited are included within the limits of the proposed District, and (e) that the establishment of the District is in the public interest.

THIRD: FURTHER RESOLVING AND DETERMINING that the establishment of the District be approved, DESIGNATING such District as Oakwood Hills Drainage District in the Town of Batavia, and DESCRIBING the District by metes and bounds;

FOURTH: FURTHER RESOLVING that the expenditure of funds is not necessary for said District improvements since they are already constructed, with the costs of any repair, maintenance or improvement of same to be provided by a third-party homeowner’s association, and the District will incur cost only to the extent the homeowner’s association fails to maintain the improvements. The levy and collection of special assessments from the several lots and parcels of land within such Benefited Area which the Town Board shall determine to be especially benefited by said Drainage District, so much upon and from each as shall be in just proportion to the amount of benefit which the Drainage District shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable.

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FIFTH: FURTHER RESOLVING that the permission of the State Comptroller is not required with respect to the District because the estimated cost of the District to the Typical Property (as defined in the Town Law) is below the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts, as computed by the State Comptroller, and a full application will not need to be submitted to the State Comptroller's Office for approval; and

SIXTH: STATING that this resolution is subject to permissive referendum.

By order of the Town Board of the
Town of Batavia, in the County of
Genesee, New York.

Dated: April 18, 2018

Teressa Morasco
Town Clerk

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

EXHIBIT A

TOWN OF BATAVIA
OAKWOOD HILLS DRAINAGE DISTRICT
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,

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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,
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.

RESOLUTION NO. 100:

Councilman Zambito offered the following:

**RESOLUTION OF THE TOWN OF BATAVIA, NEW YORK, ADOPTED APRIL
18, 2018, ESTABLISHING BATAVIA-BETHANY TOWNLINE ROAD WATER**

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DISTRICT IN SAID TOWN

Recitals

WHEREAS, the Town Board of the Town of Batavia (herein called “Town Board” and “Town” respectively) in the County of Genesee, New York has heretofore duly caused the Town Engineer, duly licensed by the State of New York, to prepare a map, plan and report for a proposed Batavia-Bethany Townline Road Water District (the “District”), in the Town, consisting of the construction and installation of approximately 4,400 linear feet of 8-inch diameter water main along a portion of Batavia-Bethany Townline Road, including land or rights in land, road crossings, furnishings, valves, hydrants, fittings, connections, fill, services, appurtenances related site work and other ancillary work; which, map, plan and report have been duly filed in the office of the Town Clerk of the Town for public inspection; 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, pursuant to the Order duly adopted on March 21, 2018, the Town Board has determined to proceed with the proposed establishment of the District and adopted an Order reciting a description of the boundaries of the District in a manner sufficient to identify the lands included therein as in a deed of conveyance, the improvements proposed, the maximum amount proposed to be expended for the construction of water improvements in connection with the District, the proposed method of financing to be employed, the fact that a map, plan and report describing the same are on file in the Town Clerk’s Office for public inspection and specifying April 18, 2018, at 7:20 o’clock P.M. (Prevailing Time) as the time when, and the Batavia Town Hall, located at 3833 West Main Street Road, Batavia, New York, in the Town, as the place where, the Town Board would meet to consider the establishment of the District, and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by Law: and

WHEREAS, certified copies of such Order were duly published and posted pursuant to the provisions of Article 12 of the Town Law and a Notice of Public Hearing was mailed by first class mail to each owner of taxable real property in the District; and

WHEREAS, the Town Board has given due consideration to the impact that the District may have on the environment and on the basis of such consideration, the Town Board has found that no substantial adverse environmental impact will be caused by such District and a Negative Declaration has been issued; and

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WHEREAS, the Town Board and the Town will comply in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law; and

WHEREAS, a Public Hearing in the matter was duly held by the Town Board on said 18th day of April, 2018, commencing at 7:20 o'clock P.M. (Prevailing Time), at such Batavia Town Hall, at which all interested persons desiring to be heard were heard.

NOW, THEREFORE, upon the evidence adduced at such Public Hearing, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF BATAVIA, IN THE COUNTY OF GENESEE, NEW YORK, AS FOLLOWS:

Section 1. It is hereby determined that:

(a) the "Petition to Request Water District" was signed, and acknowledged or proved, or authenticated, as required by law and is otherwise sufficient;

(b) the Notice of Public Hearing was mailed by first class mail to each owner of taxable real property in the District;

(c) all the property and property owners included within the proposed District hereinabove referred to in the recitals hereof are benefited thereby;

(d) all the property and property owners benefited are included within the limits of the proposed District; and

(e) it is in the public interest to establish the District.

Section 2. The establishment of the District is hereby approved, as hereinafter described, and said District shall be designated and known as Batavia-Bethany Townline Road Water District, in the Town of Batavia, and shall be bounded and described as more particularly described in annexed Exhibit "A".

Section 3. The maximum amount proposed to be expended for said District improvements is \$230,400.00, which is planned to be financed by the issuance of \$126,800.00 serial bonds of the Town offset by any funds received from the federal grants including, but not limited to, loan and/or grant funds from USDA Rural Development, said balance of costs to be provided by the levy and collection of special assessments from the several lots and parcels of land within such Benefited Area which the Town Board shall determine to be especially benefited by said Water District, so much upon and from each as shall be in just proportion to the amount of benefit which the Water District shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable.

Section 4. The permission of the State Comptroller is required with respect to the District because

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the estimated cost of the District to the Typical Property (as defined in the Town Law) exceeds the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts, as computed by the State Comptroller, and a full application shall be submitted to the State Comptroller's Office for approval.

Section 5. This resolution is not subject to permissive referendum

By order of the Town Board of the
Town of Batavia, in the County of
Genesee, New York.

Dated: April 18, 2018

Teresa Morasco
Town Clerk

Second by: Deputy Supervisor Underhill
Ayes: Zambito, Underhill, Michalak, White, Post
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

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- Ellicott Street Road and Townline Road Water District that is 500 feet westerly of Bethany Center Road and 500 feet southwesterly of Ellicott Street Road; thence,
6. Northwesterly, 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 southwesterly boundary of the Ellicott Street Road & Townline Road Water District and the northwesterly line of Tax Parcel number 20.-1-32.113; thence,
 7. Southwesterly, 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,
 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. 101:

Councilwoman White offered the following:

**ACCEPTANCE OF SOLAR ENERGY SYSTEM
DECOMMISSIONING BONDS
8169 BANK STREET ROAD
7755 OAK ORCHARD ROAD
8053 OAK ORCHARD ROAD
FOREFRONT POWER LLC
NY RNM PROJECT 2, LLC AND NY RNM PROJECT 3**

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WHEREAS, in October 2017 the Town of Batavia entered into a Decommissioning Agreement with Forefront Power, LLC for solar farm installations to be erected on the following parcels:

8169 Bank Street Road
8053 Oak Orchard Road
7755 Oak Orchard Road; and

WHEREAS, the agreement stipulates, prior to the issuance of the Certificate of Compliance, the Operator shall execute and file, with the Town Clerk a bond reasonably acceptable to the Town Attorney and Engineer, in an amount sufficient for the removal of the Solar Energy System and subsequent restoration of the Property, and shall be based upon a Cost Certification prepared by the Operator's Engineer of record and

WHEREAS, the Attorney for the Town, in consultation with the Town Engineer, have reviewed and approve of the surety bonds and Cost Certification.

NOW, THEREFORE, BE IT

RESOLVED, that the Batavia Town Board hereby accepts the Surety Bonds, along with the Cost Certifications prepared by the Operator's Engineer, which are annexed here to and made a part of the minutes for the following:

Solar Energy System Decommissioning Agreement for 8169 Bank Street Road, Batavia, by and between the Town of Batavia and NY RNM Project2, LLC
Solar Energy System Decommissioning Agreement for 8053 Oak Orchard Road, Batavia, by and between the Town of Batavia and NY RNM Project2, LLC
Solar Energy System Decommissioning Agreement for 7755 Oak Orchard Road, Batavia, by and between the Town of Batavia and NY RNM Project3, LLC.

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

RESOLUTION NO. 102:

Deputy Supervisor Underhill offered the following:

TRAINING WORKSHOP

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

Tom Lichtenthal- Highway School June 4-6, 2018. The cost for this training and lodging is appropriately \$500.00.

Second by: Councilman Zambito

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

RESOLUTION NO. 103:

Supervisor Post offered the following:

**MEMORIAL DAY
WREATHS**

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

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

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

NOW, THEREFORE, BE IT

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

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

Second by: Councilwoman White

Ayes: Post, White, Underhill, Michalak, Zambito

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 104:

Councilwoman Michalak offered the following:

**MEMORIAL DAY
FLAGS**

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

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

WHEREAS, the 2018 budget reflects appropriations for this purchase; and

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

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NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase five (5) gross 8" x 12" poly-cotton American Stick Flags from AmericanLegionFlags.com at a cost of \$89.95 per gross plus \$33.95 shipping for a total cost of \$483.70; and be it further

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

Second by: Councilman Zambito

Ayes: Michalak, Zambito, White, Underhill, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 105:

Councilman Zambito offered the following:

RESOLUTION AUTHORIZING EQUIPMENT PURCHASES
JUSTICE COURT ASSISTANCE PROGRAM (JCAP) GRANT

WHEREAS, the Town of Batavia Court was awarded a Justice Court Assistance Program (JCAP) Grant from the State of New York Unified Court System in the amount of eleven thousand, five hundred, ten dollars and forty-six cents (\$11,510.46) for Courtroom Equipment; and

WHEREAS, the Court received quotes from LB Furniture Solutions, LLC to purchase black & chrome chairs, NYS Contract #PC66460, mesh chairs, NYS Contract #PC66313 and an oak podium, NYS Contract #PC66315 at a cost of \$9,393.17 plus \$940.00 for delivery and installation, and quotes for security cameras, with the lowest quote from Ultimate Cabling Services at a cost of \$2,916.69 (quotes attached); and

WHEREAS, the total cost for the equipment, with delivery and installation is \$13,249.86; and

WHEREAS, the remaining amount of the expenditure that exceeds the grant award (\$1,739.40) will be expended from the 2018 Budget, line items A1110.200 and A1110.201.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase of courtroom equipment from LB Furniture Solutions, LLC, NYS Contract #PC66313, PC66460, and , PC66315 at a total cost of ten thousand, three hundred, thirty-three dollars and seventeen cents (\$10,333.17), which includes delivery and installation and the purchase of security cameras from Ultimate Cabling Services at a total cost of two thousand, nine hundred, sixteen dollars and sixty-nine cents (2,916.69). Copies of the quotes are annexed hereto and made a part of the minutes; and be it further

RESOLVED, the expenditure will be appropriated from line items A1110.200 and A1110.201 equally.

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

RESOLUTION NO. 106:

Councilwoman White offered the following:

**RESOLUTION AUTHORIZING SUPERVISOR TO SIGN FUEL FARM AGREEMENT WITH
THE COUNTY OF GENESEE**

WHEREAS, the Town has vehicle fueling facilities on the grounds of the Town Hall (the “fuel farm”) utilized in common by Town personnel, as well as officers and employees of other towns and the County of Genesee, for refueling of municipal vehicles, and

WHEREAS, the Town and County have drafted a proposed agreement regarding the operation and maintenance of the fuel farm, setting forth the rights and duties of the respective parties, which is attached hereto as “Exhibit A”, and

WHEREAS, in the in opinion of the Town Board, it is in the interests of the Town of Batavia to approve the proposed agreement as presented,

NOW, THEREFORE BE IT

RESOLVED, that the Supervisor is hereby authorized and directed to sign the fuel farm agreement as it appears on “Exhibit A,” attached hereto, and to forward same to the County of Genesee for execution.

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

EXHIBIT “A”

COOPERATIVE AGREEMENT
between
COUNTY OF GENESEE and TOWN OF BATAVIA
for the
FUEL FARM

This agreement is entered into the _____ day of _____, 2018 by and between the County of Genesee (hereinafter referred to as the “County”) and the Town of Batavia (hereinafter referred to as the “Town”).

WHEREAS, the Town constructed and owns certain improvements on Town property situated at 3833 West Main Street Road (the “Town Highway Garage”) consisting of two (2) 10,000-gallon below-ground storage tanks for gasoline and diesel fuel, two (2) fuel pumps, one (1) canopy, fire suppression system, and other ancillary equipment and controls (collectively, the “Fuel Farm”), and

WHEREAS, the Fuel Farm is presently utilized by the County, Town, City of Batavia, and various other agencies and public benefit corporations (collectively, the “Users”) for refueling of vehicles and equipment; and

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WHEREAS, the Fuel Farm is operated and maintained by the County, which is responsible for all bulk fuel purchases, tracking of and billing for fuel usage by the parties to this Agreement and other entities, and maintenance of the improvements comprising the Fuel Farm, and

WHEREAS, the Town has assumed responsibility for clearing of snow in and around the Fuel Farm, and payment for electricity charges used and consumed in connection with the operation of the Fuel Farm, and

WHEREAS, the parties wish to confirm and establish their understanding regarding the operation and maintenance of the Fuel Farm in writing, and,

WHEREAS, the parties are authorized to enter into a cooperative agreement pursuant to Article 5 (G) of the General Municipal Law of the State of New York to operate and maintain common refueling facilities; and

WHEREAS, the governing boards of each party have determined it to be in the best interest of the parties to enter into this Agreement, and by official action has authorized the execution of this Agreement,

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

Section 1
LOCATION

The Fuel Farm shall remain sited at the Town Highway Garage as presently situated, according to the terms and conditions set forth herein.

Section 2
OPERATION AND MAINTENANCE

2.1 The County shall operate and maintain the Fuel Farm in a good state of repair consistent with the reasonable use and enjoyment of the facility by the Users; and pursuant to any applicable New York State and/or Federal laws, rules or regulations. Any expenditures for repairs or replacements costing in excess of a total of \$5,000 in any given year, shall be considered a capital cost, and thereby, shall be the responsibility of the Town and not the County.

2.2 The County shall maintain all local, state, and/or federal licenses and/or permits that are required to operate and maintain the Fuel Farm, and to provide any such permitting agencies such documentation as required to maintain the permits. The County further agrees to provide copies of all such licenses and permits to the Town.

2.3 The County shall maintain records adequate to monitor fuel usage of each User and use those records to provide monthly or periodic bills to each. The bills shall be separated by department or other grouping as requested by each User, and mailed to the address requested by each User.

2.4 The County shall bill the Town for fuel consumption on a monthly basis, and the Town shall pay the County for the amount invoiced within forty-five (45) days from the receipt of the invoice.

2.5 The County shall maintain cost and purchase records adequate to establish the Users' per-gallon purchase price of the fuel, which shall be equal to the direct cost to County for the purchase of the fuel with no increases for the County's overhead, except as provided in Section 2.6 of this Agreement. The per-gallon cost times the actual number of gallons dispensed during a billing period shall comprise the base bill.

2.6 In addition to the amounts charged in Section 2.5, above, the County:

- a. may assess a \$0.06 per-gallon surcharge to all Users to cover the County's overhead in operating the Fuel Farm, which revenue may be applied to the County budget, in its sole discretion. This surcharge may be changed annually by mutual agreement of the parties; and
- b. shall assess a \$0.16 per-gallon surcharge to all Users to cover future Fuel Farm capital costs, which shall be annually remitted to the Town, and applied by the Town to a dedicated Fuel Farm replacement reserve account to be established and maintained by the Town. This surcharge may be changed from time to time by mutual agreement of the parties.

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2.7 All insurance regarding the Fuel Farm shall be maintained by the Town at its sole cost and expense, except that the cost for underground storage tank and/or pollution prevention insurance shall be provided by the County

2.8 The cost of any facility upgrade or replacement shall be borne by the Town.

2.9 The cost of all utilities serving the Fuel Farm shall be borne by the Town.

2.10 In the event of any environmental liability whatsoever that exceeds any applicable pollution insurance coverage, the Town shall be responsible for, and hold the County harmless from, all costs associated with such damage or liability, including without limitation all costs of remediation, correction or elimination of potential or actual environmental damages or liabilities, and any legal fees or related expenses associated with bringing the property into compliance with all environmental laws, codes and regulations.

Section 3.
COOPERATION

3.1 The parties agree that each entity will cooperate with the other and comply with reasonable operation rules and regulations developed by the County and Town for such fuel facility for their mutual benefit. Each will act reasonably and in good faith in accomplishing the intent and purposes of this Agreement.

3.2 The County may agree to allow other municipal or not-for-profit users to access the fuel facility, upon terms and conditions which require such user to pay for costs set forth in Paragraph 2.6 herein; as well as to maintain and provide proof of insurance naming the County and Town as additional insured in the amounts set forth in Section 5, below.

Section 4.
TERM

4.1 The initial term of this Agreement shall be for five (5) years from the date this Agreement is executed, and shall automatically renew for additional five (5) year periods thereafter unless a notice of non-renewal is served by either party upon the other at least six (6) months prior to any termination date.

4.2 Either party may withdraw from this Agreement by giving six (6) months advance notice to the other party, in writing, during the term of this Agreement. In the event of a termination by such Party, the Party's contractual rights and obligations under this Agreement shall terminate, with the exception of any liability or responsibility incurred as provided in Section 5.1 hereof, provided, however, that the basis for any such claim shall have occurred during the term of the Agreement.

Section 5.
INDEMNITY AND INSURANCE

5.1 The parties agree that each will perform its duties and/or exercise its rights under this Agreement in such a manner as not to create an unreasonable risk of liability or damage to the other. In the event that any of the parties performs or acts under this Agreement in negligent or intentional manner, causing uninsured damage or liability to either party to this Agreement, the party causing the damage or liability shall hold harmless, defend at its expense, indemnify, and make whole the other party from such damage or liability.

5.2 Each party agrees to maintain, at minimum, commercial liability coverage, including contractual liability coverage, naming the other parties as an additional insured, in a minimum amount of \$1,000,000 from appropriate insurance companies or such other amount as the parties may agree to from time to time.

5.3 Each party agrees to obtain automobile liability coverage for owned, non-owned, and hired vehicles, naming the other parties as additional insured in the minimum amount of \$1,000,000 at its sole expense or such other amount as the parties may agree to from time to time.

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5.4 The parties agree to provide evidence of insurance coverage in the form of a certificate of insurance which shall state that coverage afforded under the policies will not be cancelled, altered, or non-renewed until at least thirty (30) days' prior written notice has been given to the other party.

Section 6
MISCELLANEOUS

6.1 Every provision of this Agreement is intended to be severable. If any provision is held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed modified or rescinded to the extent necessary to comply with law and all other provisions shall continue in full force and effect.

6.2 This Agreement contains the complete agreement between the parties and may not be modified except in writing signed by both parties. Upon its effective date, this Agreement supersedes any prior agreements or understandings, written or oral, pertaining to this matter.

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

6.4 Any lawsuits or proceedings relating to this Agreement shall only be initiated and maintained in Genesee County. IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duty authorized officers on the day and year first above written.

COUNTY OF GENESEE

By: Robert Bausch
Chairman

TOWN OF BATAVIA

By: Gregory H. Post
Supervisor

RESOLUTION NO. 107:

Deputy Supervisor Underhill offered the following:

ECONOMIC DEVELOPMENT WEEK
MAY 7 – 12, 2018

WHEREAS, economic development efforts in Genesee County are completely aligned with the Buffalo-Rochester Metro Corridor which has fostered major investment, targeted industry attraction, local business growth, fostered entrepreneurship, as well as facilitated community development; and

WHEREAS, the efforts led by the Genesee County Economic Development Center, the Batavia

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Development Corporation, and the Batavia Business Improvement District, collectively, along with partners including Genesee Community College, The Best Center at GCC, the New York State Small Business Development Center, and the Genesee County Chamber of Commerce serve as a model across New York State of collaboration and best practices; and

WHEREAS, the leaders and board members of these agencies have worked effectively with the Genesee County Legislature, Batavia City Council, local municipal and business leaders, as well as other agency partners to effect significant economic growth within Genesee County; and

WHEREAS, we recognize May 7-12th as National Economic Development Week wherein we celebrate the accomplishments of our community and economic development agencies; and

WHEREAS, these agencies have been successful in fostering over \$1.3 billion of new private investment since 2003 including projects of all sizes that create a positive and prosperous quality of life for residents throughout the county; and

WHEREAS, seven (7) industry specific greenfield corporate parks, including the Western New York Science and Technology Advanced Manufacturing Park (WNY STAMP) campus, have the potential to attract billions of private sector investment and more than 10,000 jobs; and

WHEREAS, these industry specific shovel ready parks are part of an “edge development” strategy to attract large manufacturing operations at the edge of population centers to create positive pressure, growth, and community development in the City and villages across Genesee County; and

WHEREAS, economic development officials, along with Genesee County elected leaders, the City of Batavia Council and the Batavia City School District have created a unique PILOT Increment Financing (PIF) fund, the first in New York State, that leverages private investment in order to transform distressed neighborhoods; and

WHEREAS, economic development officials recently co-authored a winning application securing Governor Cuomo’s Downtown Revitalization \$10 Million Award for the Batavia Business Improvement District that will further facilitate economic and community growth; working collaboratively to infuse arts, culture, entertainment, healthy living and prosperity for all; now, therefore, be it

NOW, THEREFORE, BE IT

RESOLVED, that the Town Of Batavia Town Board recognizes that our economic development leaders are progressive, dedicated and conscientious citizens worthy of esteem of not only the Town of Batavia, but of the entire State of New York and hereby designates May 7th – 12th in the year 2018, Economic Development Week.

Second by: Councilwoman White

Ayes: Underhill, White, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

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RESOLUTION NO. 108:

Supervisor Post offered the following:

**LEAD AGENCY STATUS
TOWN OF ALABAMA WATER DISTRICT NO. 2 – PHASE 3 and PHASE 4**

WHEREAS, the Town of Alabama Town Board wishes to assume Lead Agency status for the proposed Water District No. 2 – Phase 3 and Phase 4; and

WHEREAS, the Batavia Town Board, as an Involved Agency, does not object to the Town of Alabama Town Board assuming this role.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the attached SEQR Lead Agency Coordination Request Form designating the Town of Alabama Town Board as Lead Agency for the proposed Water District No. 2- Phase 3 and Phase 4, located in the Town of Alabama.

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

RESOLUTION NO. 109:

Councilwoman Michalak offered the following:

**ESTABLISHING STANDARD WORKDAY AND REPORTING
ELECTED AND APPOINTED OFFICIALS
EXEMPT FROM THE TIME AND ATTENDANCE SYSTEM**

RESOLVED, the Batavia Town Board hereby establishes the following as a standard workday for elected and appointed officials exempt from the time and attendance system and will report the following days worked to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by these officials to Town Clerk and Secretary to the Supervisor;

Elected & Appointed Officials								
Title	Name	Social Security Number (Last 4 digits)	Registration Number	Standard Work Day (hrs/day)	Current Term Begins/Ends	Participates in Employer's Time Keeping System	Record of Activities	Tier 1 (Check only if m is in Tier 1)
Town Clerk	Teressa M. Morasco			8 hours	01/01/2018-12/31/2021	N	27.98	

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Councilman	Daniel G. Underhill			6 hours	01/01/2018-12/31/2021	N	21.74	
Councilwoman	Patti Michalak			6 hours	01/01/2018-12/31/2021	N	22.22	

and be it further

RESOLVED, the Town Clerk is hereby directed, as required by Section 315.4 (c), to post said resolution on the Town’s website and the sign board located in the Town Hall; and be it further

RESOLVED, the Town Clerk is hereby directed to file a certified copy of the resolution and an affidavit of posting with the Office of the State Comptroller’s.

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

RESOLUTION NO. 110:

Councilman Zambito offered the following:

**TOWN OF BATAVIA
SEQR - LEAD AGENCY RESOLUTION
BATAVIA BETHANY TOWNLINER ROAD WATER PROJECT**

“**RESOLVED**, that in accordance with the New York State Environmental Quality Review (SEQR) regulations, the Town Board of the Town of Batavia hereby announces its intent to serve as lead agency to conduct an environmental review of the Batavia Bethany Townline Road Water Project. In accord with the likelihood that the Town Board will serve as lead agency, the Board has prepared an Environmental Assessment of the significance of and potential environmental impact of the proposed project, as described below.

The project involves the installation of 4,400 linear feet of 8-inch water main along Batavia-Bethany Townline Road between Bethany Center and Shepard Roads. Activities include the installation of watermain, fire hydrants, valves, watermain connections, residential hook-ups, road crossings, excavation and bedding materials and surface restoration.

FURTHER RESOLVED, 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 hereby accepts the Environmental Assessment Part 1 of this project, prepared by Town of Batavia Engineering Department, and be it

FURTHER RESOLVED, the Town Board will notify the Involved Agencies of its intention to act as Lead Agency for this project and will provide them with a copy of Part 1 of the Short Environmental Assessment Form. The Town Board plans to make a Negative Determination of Significance for the project after the 26-day comment period has elapsed.

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

RESOLUTION NO. 111:

Councilwoman White offered the following:

**RESOLUTION AUTHORIZING SUPERVISOR TO SIGN AMENDED AND RESTATED
WATER AGREEMENT WITH
COUNTY OF GENESEE**

WHEREAS, The Town and County of Genesee entered into an agreement dated the 27th day of March, 2001, relative to the supply of water by the County to the Town, which was modified by subsequent agreement of the parties on the 27th day of August, 2001 (the “former agreement”), and

WHEREAS, the County requested renegotiation of the former agreement due to its inability to supply the quantity of water contemplated by the former agreement at the current surcharge rate, and its failure to plan for or construct certain water system improvements required by the former agreement, and

WHEREAS, upon due deliberation by the Town Board, and after various meetings with representatives of the County of Genesee, the parties have arrived at proposed modifications to the former agreement as appear in final form on “Exhibit A,” attached hereto (the “Amended and Restated Agreement”), and

WHEREAS, despite the County’s failure to fulfill its obligations under the former agreement, the Town believes it to be in the best interests of the water system and the residents of the Town alike to enter into the Amended and Restated Agreement, and is encouraged by the early steps already taken by the County to fulfil its obligations under the new agreement, and

WHEREAS, the County has adopted the attached resolution, “Exhibit B”, committing to starting the phase III process to insure the additional needed supply will be available at the earliest time feasible.

NOW, THEREFORE, BE IT

RESOLVED, that the Supervisor is hereby authorized to sign the Amended and Restated Agreement as appears on the attached “Exhibit A,” and be it further

RESOLVED, that the Town Clerk is hereby directed to forward executed copies of same to the County of Genesee for execution.

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

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

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

RESOLUTION NO. 112:

Deputy Supervisor Underhill offered the following:

RESOLUTION TO ESTABLISH LINE ITEMS FOR CAPITAL PROJECTS

RESOLVED, the Batavia Town Board hereby establishes the following line items:

BATAVIA-BETHANY TOWNLINE ROAD WATER DISTRICT

HC1380.400 Fiscal Agent - Contractual
HC1420.400 Legal Expense - Contractual
HC1440.400 Engineering
HC1989.400 Advertising - Contractual
HC8340.400 Transmission/Distribution – Contractual
HC9730.600 BAN – Principle
HC9730.700 BAN – Interest
HC9901.900 Transfers To Other Funds
HC2401 Interest & Earnings
HC2770 Miscellaneous Revenues
HC2710 Premium on Obligations
HC4991 Capital Grants
HC5031 Interfund Transfers
HC5710 Serial Bonds
HC5730 BAN Proceeds
HC5731 BAN Redeemed From Appropriations

Second by: Councilwoman White

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

RESOLUTION NO. 113:

Supervisor Post offered the following:

**ACCOUNTING SOFTWARE MAINTENANCE AGREEMENT
WILLIAMSON LAW BOOK COMPANY**

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the annual renewal Accounting Software Maintenance Agreement between the Town of Batavia and Williamson Law Book Company at a cost of one thousand thirty eight dollars (\$1,038.00) for one (1) year, effective May 1, 2018 to April 30, 2019, a copy of which is annexed hereto and made a part of the minutes.

Second by: Deputy Supervisor Underhill

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

Abstract No. 4-2018: Motion Deputy Supervisor Underhill, second Councilman Zambito to authorize the Supervisor to pay the following vouchers:

General	\$82,363.50
Highway	13,223.83
Sewer No. 1	2,778.78
Sewer No. 2	5,644.18
Water	258,600.41
Batavia-Bethany	584.10
Southwest	447,641.90
Ellicott Trail	39.00
Total	\$810,875.70

Check numbers 21119 thru 21189, ACH: \$33,122.02, Online: \$10,132.85

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

DEPARTMENT REPORTS:

The Supervisor reported on the following departments:

Highway -Cleaning up for the snow plow damage and still sanding and salting roads.

Water/Wastewater - Reading meters, repairing pump stations and ongoing maintenance.

Building Inspector – Read Inspector report

Supervisor’s Report:

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

COMMUNICATIONS:

The Town Clerk reported on the following:

March Town Clerk monthly report collected a total of \$2,492.00, remitted \$2,356.76 to the Supervisor for the Local Share.

2018 Town/County Taxes- March Tax Collection collected a total of \$417,603.80, remitted \$8,433.58 to the Supervisor for the penalties collected and the remainder was remitted to the Genesee County Treasurer to close out the Town Tax Collection year.

Training- GFLRPC Spring Regional Local Government workshop is Friday, May 18. Town officials have been advised.

ADJOURNMENT:

Motion Councilman Zambito, second Councilwoman Michalak to adjourn the Regular Town Board Meeting at 8:07 P.M.

APRIL 18, 2018
REGULAR TOWN BOARD MEETING

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

Respectfully submitted,

Teressa M. Morasco
Town Clerk