

**OCTOBER 16, 2019
REGULAR TOWN BOARD MEETING**

Town Hall

7:00 P.M.

Sharon White, Councilwoman led the pledge to the flag.

Roll Call

Present:

Deputy Supervisor Underhill
Councilwoman White
Councilwoman Michalak
Councilman Zambito

Absent: Supervisor Post

Others

Present: Town Clerk Morasco
Brian Quinn, Daily News Reporter

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

Public Hearing -Establishment of the Agri-Business Park Sewer Improvement Area (2019)- The Deputy Supervisor called the Public Hearing for the Establishment of the Agri-Business Park Sewer Improvement Area (2019) at 7:05 P.M. - Minutes for public hearing entered separately

Public Hearing Local Law 3 of 2019- The Deputy Supervisor called the Public Hearing to Order for Local Law 3 of 2019 – Tax Cap Override at 7:07 P.M. - Minutes for public hearing entered separately.

Town Board reviewed SEQR for Agri-Business Park Improvements.

September 18, 2019 Regular Town Board Meeting: Motion Councilman Zambito, second Councilwoman Michalak to approve the minutes as written.

Ayes: Zambito, Michalak, White, Underhill

MOTION CARRIED by unanimous vote (4-0)

October 2, 2019 Special Town Board Meeting: Motion Councilwoman White, second Councilman Zambito to approve the minutes as written.

Ayes: White, Zambito, Michalak, Underhill

MOTION CARRIED by unanimous vote (4-0)

RESOLUTION NO.134:

Councilwoman White offered the following:

**PROFESSIONAL SERVICES AGREEMENT
CLARK PATTERSON LEE FOR
ENGINEERING SERVICES-AGRI-BUSINESS PARK
PUMP STATION IMPROVEMENTS**

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WHEREAS, engineering services are needed for the construction of an upgrade to the Agri-Business Park Pump Station; and

WHEREAS, the Town Engineer has requested a proposal from Clark Patterson Lee to provide the professional services, and

WHEREAS, Clark Patterson Lee has prepared a proposal (attached) as requested by the Town Engineer for the following:

Task 1- Preliminary Services	\$ 5,000
Task 2- Design	\$25,000
Task 3- Bidding	\$ 5,000
Task 4- Construction Administration	\$ 7,500
Task 5- Resident Inspection	\$12,000

for a total lump sum fee of fifty-four thousand five hundred dollars (\$54,500.00); and

WHEREAS, the Town Engineer has reviewed and recommends acceptance of the Clark Patterson Lee proposal.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the Engineering Services Agreement with Clark Patterson Lee to complete the engineering support work for the Agri-Business Pump Station Improvements in the amount of fifty-four thousand five hundred dollars (\$54,500.00), a copy of which is annexed hereto and made a part of the minutes.

Second by: Councilman Zambito

Ayes: White, Zambito, Michalak, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 135:

Deputy Supervisor Underhill offered the following:

**TOWN OF BATAVIA
AGRI-BUSINESS PARK PUMP STATION UPGRADE**

SEQR RESOLUTION

RESOLVED, that in accordance with the New York State Environmental Quality Review regulations (SEQR), the Town Board of the Town of Batavia announces itself as Lead Agency to conduct an environmental review under Section 617.7 of the New York State Codes, Rules and Regulations (NYSCRR) of a project to upgrade the Agri-Business Park Pump Station. The upgrade includes replacing existing pumps with larger pumps and completing electrical improvements.

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

FURTHER RESOLVED, that the Town Board, in its capacity of Lead Agency, has caused to be prepared an environmental assessment of the significance of potential environmental impact of the above-listed action. The Town Board hereby accepts the attached environmental assessment of the proposed project prepared by the Town of Batavia Engineering Department. The Town Board further declares that, based on the environmental assessment which has been prepared, the project will result in no major impacts and, therefore, will not cause significant damage to the environment. A Negative Declaration under SEQR is therefore issued for this project.

Second by: Councilwoman White
Ayes: Underhill, White, Michalak, Zambito
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 136:

Councilwoman Michalak offered the following:

RESOLUTION NO. 136

A meeting of the Town Board of the Town of Batavia, in the County of Genesee, New York, was held at the Town Hall, in said Town, on October 16, 2019.

PRESENT:

Hon. Daniel Underhill, Deputy Supervisor
Hon. Sharon White, Councilwoman
Hon. Patti Michalak, Councilwoman
Hon. Chad Zambito, Councilman

-----X

In the Matter

of the

Establishment of the Agri-Business Park
Sewer Improvement Area, in the Town of
Batavia, County of Genesee, New York,
pursuant to Article 12-C of the Town Law.

-----X

RESOLUTION ESTABLISHING THE AGRI-BUSINESS PARK

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**SEWER IMPROVEMENT AREA IN THE TOWN, APPROVING
THE UNDERTAKING OF SEWER IMPROVEMENTS FOR SUCH
BENEFITTED AREA AND MAKING OTHER DETERMINATIONS
IN CONNECTION THEREWITH.**

WHEREAS, the Town Board of the Town of Batavia (herein called “Town Board” and “Town”, respectively), in the County of Genesee, New York, has, pursuant to Town Law Article 12-C, caused Clark Patterson Lee (the “Engineer”), competent engineers duly licensed by the State of New York to prepare a preliminary map, plan and report for the establishment of the Agri-Business Park Sewer Improvement Area (the “Improvement Area”) and the undertaking of sewer improvements therein; and

WHEREAS, the Engineer has completed and filed with the Town Board such preliminary map, plan and report and such preliminary map, plan and report is available for public inspection in the Office of the Town Clerk; and

WHEREAS, the Town Board adopted an Order Calling Public Hearing for the establishment of the Agri-Business Park Sewer Improvement Area on August 21, 2019; and

WHEREAS, due to an inadvertent omission of a few parcels in the boundary description, the Town Board has decided to cancel the previously scheduled public hearing and re-adopt the Order Calling Public Hearing to include a complete boundary description; and

WHEREAS, such sewer system improvements project will generally consist of improvements to the Ag-Park Pump Station including, but not limited to, the installation of larger sanitary sewer pumps, electrical improvements and the installation of a new generator, as well as other such improvements as more fully identified in (or contemplated by) such map, plan and report referred to above, all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the “Project”); and

WHEREAS, the Project will benefit the entire proposed Agri-Business Park Sewer Improvement Area, which area is outside of any incorporated villages and is described as follows:

**TOWN OF BATAVIA
PROPOSED AGRIBUSINESS PARK SEWER
IMPROVEMENT AREA**

The boundary of the proposed Town of Batavia, Agri-Business Park Sewer Improvement Area 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 intersection of the southerly right-of-way of East Main Street Road and the centerline of AgPark Drive North; thence,

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1. Easterly, along the southerly right-of-way of East Main Street Road, a distance of 270 feet, more or less, to the northeasterly corner of Tax Parcel number 13.-1-161; thence,
2. Southerly, along the easterly line of Tax Parcel numbers 13.-1-161, 13.-1-162, 13.-1-171, and 13.-1-174, a distance of 1,466 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-158.12; thence,
3. Easterly, along a northerly line of Tax Parcel number 13.-1-174, a distance of 358 feet, more or less, to a northeasterly corner of Tax Parcel number 13.-1-174; thence,
4. Southerly, along the easterly line of Tax Parcel number 13.-1-174, along the southerly extension of an easterly line of Tax Parcel number 13.-1-174 through the lands of Tax Parcel number 13.-1-174, and continuing along the easterly line of Tax Parcel number 13.-1-165.111, a distance of 2,838 feet, more or less, to the southeasterly corner of Tax Parcel number 13.-1-165.111; thence,
5. Westerly, along a southerly line of Tax Parcel number 13.-1-165.111, a distance of 2,172 feet, more or less, to a southwesterly corner of Tax Parcel number 13.-1-165.111; thence,
6. Northerly, along a westerly line of Tax Parcel number 13.-1-165.111, a distance of 660 feet, more or less, to a northeasterly corner of Tax Parcel number 13.-1-167.1; thence,
7. Westerly, along a southerly line of Tax Parcel number 13.-1-165.111, a distance of 261 feet, more or less, to a southwesterly corner of Tax Parcel number 13.-1-165.111; thence,
8. Northerly, along a westerly line of Tax Parcel number 13.-1-165.111 and continuing along the northerly extension of a westerly line of Tax Parcel number 13.-1-165.111 across AgPark Drive West (66 feet wide right-of-way), a distance of 928 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-169; thence,
9. Westerly, along the northerly right-of-way of AgPark Drive West, a distance of 836 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-168.1; thence,
10. Northerly, along the westerly line of Tax Parcel number 13.-1-168.1, a distance of 551 feet, more or less, to the northwesterly corner of Tax Parcel number 13.-1-168.1; thence,
11. Easterly, along a northerly line of Tax Parcel number 13.-1-168.1, a distance of 63 feet, more or less, to a northeasterly corner of Tax Parcel number 13.-1-168.1; thence,
12. Southerly, along an easterly line of Tax Parcel number 13.-1-168.1, a distance of 11 feet, more or less, to a southwesterly angle point of Tax Parcel number 13.-1-105.1; thence,
13. Easterly, along the northerly line of Tax Parcel numbers 13.-1-168.1 and 13.-1-169, a distance of 1,201 feet, more or less, to the northerly corner of Tax Parcel number 13.-1-169; thence,
14. Southeasterly, along the southerly line of Tax Parcel number 13.-1-106.1, a distance of 1,176 feet, more or less, to the southeasterly corner of Tax Parcel number 13.-1-106.1; thence,
15. Northerly, along the easterly line of Tax Parcel number 13.-1-106.1, a distance of 70 feet, more or less, to the northeasterly corner of Tax Parcel number 13.-1-106.1; thence,
16. Westerly, along the northerly line of Tax Parcel number 13.-1-106.1, a distance of 814 feet, more or less, to a southwesterly corner of Tax Parcel number 13.-1-170.11; thence,
17. Northerly, along a westerly line of Tax Parcel number 13.-1-170.11, a distance of 134 feet, more or less, to a northwesterly corner of Tax Parcel number 13.-1-170.11; thence,
18. Easterly, along a southerly line of Tax Parcel number 13.-1-141.112, a distance of 73 feet, more or less, to a southeasterly corner of Tax Parcel number 13.-1-141.112; thence,

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19. Northerly, along a westerly line of Tax Parcel number 13.-1-170.11, a distance of 975 feet, more or less, to a northwesterly corner of Tax Parcel number 13.-1-170.11; thence,
20. Easterly, along a northerly line of Tax Parcel number 13.-1-170.11, a distance of 329 feet, more or less, to a southeasterly corner of Tax Parcel number 13.-1-45; thence,
21. Northerly, along a westerly line of Tax Parcel number 13.-1-170.11, a distance of 163 feet, more or less, to a northwesterly corner of Tax Parcel number 13.-1-170.11; thence,
22. Easterly, along a northerly line of Tax Parcel number 13.-1-170.11, a distance of 445 feet, more or less, to the southwest corner of Tax Parcel number 13.-1-164.2; thence,
23. Northerly, along the westerly line of Tax Parcel numbers 13.-1-164.2 and 13.-1-164.1, a distance of 1,002 feet, more or less, to the northwesterly corner of Tax Parcel number 13.-1-164.1; thence,
24. Easterly, along the southerly right-of-way of East Main Street Road, a distance of 205 feet, more or less, to the point of beginning.

All as shown on the map prepared by the Town of Batavia entitled, “Agri-Business Park Sewer Improvement Area,” dated 9/2019. The Town of Batavia, Agri-Business Sewer Improvement Area, as described above, contains approximately 157.2 acres of land.

WHEREAS, the Engineer has estimated the total cost of the Sewer Improvement to be \$400,000; said cost to be financed by the issuance of serial bonds of the Town in the aggregate principal amount of \$400,000 offset by any federal, state, county and/or local funds received.

WHEREAS, the Town Board may establish sewer rents as provided in subdivision 12-a of Town Law Section 209-q and paragraph (l) of subdivision one of Town Law Section 198; and it is hereby

WHEREAS, the estimated maximum amount proposed to be expended for the construction of the Agri-Business Park Sewer Improvement Area shall be financed by the issuance of serial bonds of the Town in an aggregate principal amount not to exceed \$400,000 said amount to be offset by any federal, state, county and/or local funds, and unless paid from other sources or charges (including, but not limited to, sewer rents), the costs of said establishment shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the proposed Agri-Business Park Sewer Improvement Area, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law; and be it

WHEREAS, the Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act (“SEQRA”), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary; and

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WHEREAS, the Town Board issued an Order at its September 18, 2019 meeting calling for a public hearing to be held at the Town Hall, Batavia, New York, on October 16, 2019 at 7:00 o'clock P.M. (Prevailing Time) or shortly thereafter, to consider the establishment of the Improvement Area and the undertaking of improvements therefor, and to hear all persons interested in the subject thereof, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, the first publication thereof and said posting to be not less than ten nor more than 20 days before the date of such public hearing; and

WHEREAS, certified copies of such order were duly published and posted pursuant to the provisions of Article 12-C of the Town Law, and the public hearing duly held at the time and place stated in the notices.

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED BY THE TOWN BOARD OF THE TOWN OF BATAVIA, as follows:

DETERMINED, that it is in the public interest to establish the Improvement Area as hereinabove described; and it is hereby

DETERMINED, that the estimated maximum cost of the Project that the Improvement Area is undertaking is \$400,000; and it is hereby

DETERMINED, that the parcels and lots of the Improvement Area shall be benefited by the establishment of the Improvement Area; and it is hereby

DETERMINED, that the estimated expense to the Town of the Project will not exceed one-tenth of one per centum of the full valuation of the taxable real property in the area of the Town outside of any village; therefore, permission of the State Comptroller is not required; and it is hereby

ORDERED, that the Improvement Area shall be established and that the Engineer and the Town shall prepare plans and specifications and make a careful estimate of the expense for said establishment of the Improvement Area, and with the assistance of the Town Attorney, prepare a proposed contract for the execution of the work, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible; and it is hereby

FURTHER ORDERED, that the expense of the establishment of the Improvement Area shall be financed by the issuance of serial bonds of the Town in an aggregate principal amount not to exceed \$400,000 said amount to be offset by any federal, state, county and/or local funds received, and unless paid from other sources or charges (including, but not limited to, sewer rents), the costs of said establishment shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the proposed Improvement Area, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law; and it is hereby

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FURTHER ORDERED, that this resolution shall take effect immediately; and it is hereby

FURTHER ORDERED, that the Town Clerk shall cause a certified copy of this Resolution to be duly recorded in the office of the clerk of Genesee County within ten days after the adoption of this Resolution.

The adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

AYES:

NOES:

ABSENT:

The resolution was declared adopted.

Second by: Councilman Zambito

Ayes: Michalak, Zambito, White, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 137:

Councilman Zambito offered the following:

A BOND RESOLUTION, DATED OCTOBER 16, 2019, OF THE TOWN BOARD OF THE TOWN OF BATAVIA, GENESEE COUNTY, NEW YORK (THE “TOWN”), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT FOR THE TOWN OF BATAVIA AGRI-BUSINESS PARK SEWER IMPROVEMENT AREA, AT AN ESTIMATED MAXIMUM COST OF \$400,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$400,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Batavia, Genesee County, New York (the “Town”), has determined to proceed with a certain sewer system capital improvements project for the Town of Batavia Agri-Business Park Sewer Improvement Area (the “Improvement Area”); and

WHEREAS, the Town Board took actions for the authorization of such project, some of which are described below: (a) received maps, plans and boundary description for such project, (b) held a public hearing with respect to such project, (c) determined that such project would not have a significant

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adverse effect on the environment under Article 8 of the Environmental Conservation Law, and (d) determined that the requirements of Article 12-C of the Town Law had been satisfied with respect to such project and further determined to undertake such project; and

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of such project; and

NOW THEREFORE,

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The Town is hereby authorized to undertake a sewer system improvements project, such work to generally consist of (but not be limited to) the installation of larger sanitary sewer pumps, electrical improvements and the installation of a new generator, as well as other such improvements as more fully identified in (or contemplated by) such map, plan and report prepared in connection with such project, all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Project"). The estimated maximum cost of the Project is \$400,000.

SECTION 2. The Town plans to finance the estimated maximum cost of the Project by the issuance of serial bonds in an aggregate principal amount not to exceed \$400,000 of the Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received, and unless paid from other sources or charges (including, but not limited to, sewer rents), the costs of said establishment shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the Improvement Area, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law.

SECTION 3. It is hereby determined that the Project is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges (including, but

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not limited to, sewer rents), there shall be the assessment, levy and collection of special assessments from the several lots and parcels of land within the Improvement Area which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on such bonds as the same become due and payable, except as provided by law. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all taxable real property of the Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town. Without in any way limiting the scope of the foregoing delegation of powers, the Town Supervisor, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the Town.

SECTION 8. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the earlier of (a) the date hereof or (b) the date of any earlier expression by the Town of its intent to reimburse such expenditures) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration (or reaffirmation) of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

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SECTION 11. The Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act (“SEQRA”), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary.

SECTION 12. In the absence or unavailability of the Town Supervisor, the Deputy Town Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

SECTION 13. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

(1) (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) if the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of such publication; or

(2) such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 14. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in the Town and hereby designated as the official newspaper of the Town for such publication.

SECTION 15. This Resolution is effective immediately.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

AYES:

NOES:

ABSENT:

The foregoing resolution was thereupon declared duly adopted.

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

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APPROVED by unanimous vote (4-0)

RESOLUTION NO. 138:

Councilwoman White offered the following:

**BID AWARD
AGRI-BUSINESS PARK PUMP STATION UPGRADE
CONCORD ELECTRIC CORPORATION**

WHEREAS, the Town of Batavia received bids on October 4, 2019 for the Electrical Improvements for the upgrade to the Agri-Business Park Pump Station; and

WHEREAS, Concord Electric Corporation., was the lowest responsible bidder at a cost of one hundred, forty-eight thousand dollars and no cents (\$148,000.00); and

WHEREAS, Clark Patterson Lee has completed a review of the low bidder (attached); and

WHEREAS, the Town Engineer has reviewed the same and recommends award of the contract to Concord Electric Corporation.

NOW THEREFORE BE IT

RESOLVED, the Batavia Town Board hereby awards the bid to Concord Electric Corporation at a cost of one hundred, forty-eight thousand dollars and no cents (\$148,000.00) for the Electrical Improvements for the Agri-Business Park Pump Station upgrade project; and be it

FURTHER RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute an agreement and any related documents with Concord Electric Corporations.

Second by: Councilman Zambito

Ayes: White, Zambito, Michalak, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 139:

Deputy Supervisor Underhill offered the following:

RESOLUTION ADOPTING LOCAL LAW No. 3 of 2019

WHEREAS, proposed Local Law No. 3 of 2019 of the Town of Batavia entitled “A Local Law to Override the Tax Levy Limit Established in General Municipal Law § 3-c for Fiscal Year 2020”, which proposed Local Law in its final form was presented to the Town Board at the meeting held on September 18, 2019, 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 October 16, 2019, before this Town Board, pursuant to public notice duly published in The Daily News

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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 2019 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 2019 be and the same hereby is adopted; and

BE IT FURTHER RESOLVED, that a certified copy of said Local Law No. 3 of 2019 be filed with the New York State Secretary of State in accordance with Law.

Second by: Councilwoman White
Ayes: Underhill, White, Michalak, Zambito
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 140:

Councilwoman Michalak offered the following:

**ADOPTION OF THE
2020 PRELIMINARY TOWN BUDGET**

RESOLVED, the Batavia Town Board hereby adopts the Preliminary Town Budget for 2020; and be it further

RESOLVED, that the 2020 Preliminary Town budget hereby be filed in the Office of Batavia Town Clerk.

Second by: Councilwoman White
Ayes: Michalak, White, Zambito, Underhill
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 141:

Councilman Zambito offered the following:

**CALLING A PUBLIC HEARING
SEWER RENTS – MAY 2020 TO FEBRUARY 2021**

WHEREAS, pursuant to General Municipal Law Section 452 as amended, impositions of sewer rents in Sewer Districts No. 1 and No. 2 in the Town of Batavia are subject to approval by the Batavia Town Board,

WHEREAS, these sewer rents are imposed to pay for the cost of wastewater treatment and operation and maintenance of the sewer lines,

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WHEREAS, the proposed sewer rents for May 2020 to February 2021 are Sewer District No. 1 - \$7.09/1,000 gallons, Sewer District No. 2 - \$7.09/1,000 gallons;

WHEREAS, a public hearing is required before the new sewer rents are imposed.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes and orders that a Public Hearing on the Proposed Sewer Rents- May 2020 to February 2021 be conducted at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, beginning at 7:00 P.M. on Wednesday, November 6, 2019, at which time and place all interested persons will be heard; and be it further

RESOLVED, that the Town Clerk is hereby directed to have published at least once in the Daily News at least five (5) days before the date scheduled for the public hearing, the public hearing notice which is attached hereto.

Second by: Councilwoman White
Ayes: Zambito, White, Michalak, Underhill
APPROVED by unanimous vote (4-0)

**NOTICE OF PUBLIC HEARING
SEWER RENTS – MAY 2020 TO FEBRUARY 2021**

PUBLIC NOTICE IS HEREBY GIVEN that a public hearing will be held November 6, 2019 at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, at 7:00 P.M. for the purpose of imposing Sewer Rents. The proposed sewer rents for May 2020 to February 2021 are, Sewer District No. 1 at \$7.09/1,000 gallons and Sewer District No. 2 at \$7.09/1,000 gallons.

The foregoing by order of the Batavia Town Board.

Dated: October 16, 2019

Teresa M. Morasco
Batavia Town Clerk

RESOLUTION NO. 142:

Councilwoman White offered the following:

**CALLING A PUBLIC HEARING
WATER RATE – MAY 2020 TO FEBRUARY 2021**

WHEREAS, pursuant to the Code of the Town, Section 229-15, the Town Board shall by resolution establish and from time to time modify the water rate for all water sold by the Town of Batavia; and

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WHEREAS, in November 2015 the Town established an Agricultural Rate and a Base Rate within the Town's water service area, and

WHEREAS, the definition of the two rates are:

Base rate: applies to all meters that are not dedicated to use within farming operations as described in the Agricultural Rate.

Agricultural Rate: applies to all meters serving parcels in a Certified Agricultural District and dedicated to use in farming operations, including providing drinking water for livestock, irrigation of crops, and operations related directly to agriculture. This rate does not apply to meters that also serve domestic, commercial, or industrial uses.

WHEREAS, the formula for the Base Rate is

- 100% of the water purchase cost
- 100% of the Genesee County water surcharge cost
- 100% of the Town's debt reserve cost
- 100% of the Town's Operation and Maintenance cost

WHEREAS, the formula for the Agricultural Rate is

- 100% of the water purchase cost
- 100% of the Genesee County water surcharge cost
- 100% of the Town's debt reserve cost
- 10% of the Town's Operation and Maintenance cost

WHEREAS, the proposed Base water rate for May 2020 to February 2021 is \$6.42 /1,000 gallons; and

WHEREAS, the proposed Agricultural water rate for May 2020 to February 2021 is \$5.10/1,000 gallons; and

WHEREAS, as a courtesy to the consumers, the Town Board wishes to call a public hearing before imposing the new rates.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes and orders that a Public Hearing on the proposed water rate- May 2020 to February 2021 be conducted at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, beginning at 7:05 P.M. on Wednesday, November 6, 2019 at which time and place all interested persons will be heard; and be it further

RESOLVED, that the Town Clerk is hereby directed to have published at least once in the Daily News at least five (5) days before the date scheduled for the public hearing, the public hearing notice

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which is attached hereto.

Second by: Councilwoman Michalak
Ayes: White, Michalak, Zambito, Underhill
APPROVED by unanimous vote (4-0)

**NOTICE OF PUBLIC HEARING
WATER RATE – MAY 2020 TO FEBRUARY 2021**

PUBLIC NOTICE IS HEREBY GIVEN that a public hearing will be held November 6, 2019 at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, at 7:05 P.M. for the purpose of imposing water rates. The proposed base water rate for May 2020 to February 2021 is \$6.42/1,000 gallons and the proposed Agricultural water rate for May 2020 to February 2021 is \$5.10/1,000 gallons.

The foregoing by order of the Batavia Town Board.

Dated: October 16, 2019

Teresa M. Morasco
Batavia Town Clerk

RESOLUTION NO. 143:

Deputy Supervisor Underhill offered the following:

**CALLING FOR PUBLIC HEARING
ON THE 2020 TOWN BUDGET**

RESOLVED, the Batavia Town Board hereby authorizes and orders that a Public Hearing on the Preliminary Town Budget for 2020 be conducted at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, beginning at 7:10 P.M. on Wednesday, November 6, 2019 at which time and place all interested persons will be heard; and be it further

RESOLVED, that the Town Clerk is hereby authorized and directed to publish such public notice of the subject Public Hearing as required by law.

Second by: Councilman Zambito
Ayes: Underhill, Zambito, White, Michalak
APPROVED by unanimous vote (4-0)

**NOTICE OF PUBLIC HEARING
ON THE 2020 TOWN BUDGET**

PUBLIC NOTICE IS HEREBY GIVEN that the Preliminary Budget of the Town of Batavia for fiscal year 2020 has been completed and filed in the Office of the Town Clerk of the Town of Batavia, where it is available for public inspection during regular business hours.

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Notice is also given that the Town Board of the Town of Batavia will hold a Public Hearing on the Preliminary Budget at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York beginning at 7:10 P.M. on Wednesday, November 6, 2019 at which time and place any person will be heard in favor of or in opposition to any item or items contained therein.

Public Official Salaries are as follows:

Supervisor	\$40,000.00
Deputy Supervisor	\$18,000.00
Councilman (3)	\$10,000.00
Town Clerk/Tax Collector	\$72,370.00
Highway Superintendent	\$19,707.00
Town Justice (2)	\$28,000.00

The foregoing by order of the Batavia Town Board.

Dated: October 16, 2019

Teresa M. Morasco
Batavia Town Clerk

RESOLUTION NO. 144:

Councilwoman Michalak offered the following:

ESTABLISH LINE ITEMS
FOR CAPITAL PROJECTS

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

HI – TOWN HALL EXPANSION

HI 1380.400 Fiscal Agent - Contractual
HI 1420.400 Legal Expense - Contractual
HI 1440.100 Engineering – Personal Services
HI 1440.400 Engineering - Contractual
HI 1620.400 Construction – Contractual
HI 1989.400 Advertising - Contractual
HI 9710.600 Bond – Principal
HI 9710.700 Bond - Interest
HI 9730.600 BAN – Principal
HI 9730.700 BAN – Interest
HI 9901.900 Transfers To Other Funds
HI 2401 Interest & Earnings
HI 2710 Premium on Obligations
HI 2770 Miscellaneous Revenues
HI 3097 State Aid - Capital Projects
HI 4097 Federal Aid – Capital Projects
HI 5031 Interfund Transfers
HI 5710 Serial Bonds

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HI 5730 BAN Proceeds
HI 5731 BAN Redeemed From Appropriations

Second by: Councilwoman White
Ayes: Michalak, White, Zambito, Underhill
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 145:

Councilman Zambito offered the following:

TRAINING WORKSHOP

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

Lou Paganello, Jonathan Long, Paul McCullough, Paul, Marchese, and Kathleen Jasinski- Sexual Harassment Prevention for Employees NYS Sexual Harassment Training, Part 1 & Part 2 (was) October 1, 2019. One hour to be credited toward required training for each member in attendance.

Hiedi Libroek- Employer Advisory Council Meeting with New York State Retirement October 30, 2019 in Albany. The cost for lodging and meals is 155.00. A Town vehicle will be used.

Second by: Councilwoman White
Ayes: Zambito, White, Michalak, Underhill
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 146:

Councilwoman White offered the following:

**LEVYING UNPAID WATER AND SEWER
CHARGES AGAINST 2020 TAX WARRANT**

WHEREAS, the Deputy Town Clerk has prepared a list of all property owners who owe the Town for water and/or sewer rents as of October 16, 2019; and

WHEREAS, Section 229-15 (c) of Town Law stipulated that such amounts owing shall be levied against the property to which the service is rendered.

NOW, THEREFORE, BE IT RESOLVED, that the attached list in the amount of \$105,550.11 or as may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2020 tax warrant.

Second by: Councilman Zambito
Ayes: White, Zambito, Michalak, Underhill

**OCTOBER 16, 2019
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APPROVED by unanimous vote (4-0)

RESOLUTION NO. 147:

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW No. 4 of 2019
AND TO SCHEDULE A PUBLIC HEARING**

WHEREAS, the Town Board of the Town of Batavia, New York desires to consider adopting legislation to amend portions and allow certain changes by resolution of Chapter 169 of the Code of the Town of Batavia, entitled “Parks”, also known as Town of Batavia Local Law No. 4 of 2019, “Amending the Town of Batavia Park Rules and Regulations Law”

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York that proposed Local Law No. 4 of 2019 entitled “A Local Law Amending the Town of Batavia Park Rules and Regulations Law”, which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, be and the same hereby is introduced for adoption; and

BE IT FURTHER RESOLVED that said proposed Local Law be laid upon the desks of the members of this Town Board on this date and remain there and a copy thereof be kept on file in the office of the Town Clerk until November 20, 2019 and that a public hearing be held before this Town Board on the 20th day of November, 2019 at 7:00 p.m. at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, on the advisability of enacting said proposed Local Law; and

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

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

Second by: Councilwoman Michalak
Ayes: Underhill, Michalak, Zambito, White
APPROVED by unanimous vote (4-0)

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.

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County
City of _____ Batavia, Genesee County, New York
Town
Village

Local Law No. 4 of the year 2019.

A local law known as A Local Law Amending the Town of Batavia Parks 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 local law shall be "A Local Law Amending the Town of Batavia Parks Law. "

Section 2. Purpose and Intent.

Town Board of Batavia Parks are popular venues for gatherings of community groups and organizations. In order to more efficiently manage the use of the park by such groups, the Town desires to establish user fees for the use of Town parks by such organizations. The purpose and intent of this law is to promote the public use and enjoyment of town parks by all residents, non-residents, and organizations through the establishment and collection of reasonable user fees.

Section 3. Amendments to Parks Law.

Chapter 169 of the Code of the Town of Batavia, entitled "Parks" is hereby amended as follows:

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- A. Subdivision B. of Section 169-6, entitled, "Use of park pavilions and reserved areas," is hereby amended by the addition of the following at the end of the subdivision:

Applications are accepted after January 1 of each year.

- B. Subdivision C. of Section 169-6, entitled, "Use of park pavilions and reserved areas," is hereby deleted in its entirety and replaced with the following:

Each application for such permit shall be accompanied by a town resident/town organization park use fee or non-resident/non-town organization park use fee, and a deposit fee to be set from time to time by the Town Board, by resolution. There will be no refund of the use fee for a cancellation made within 10 days of the reservation date. Said deposit fee shall be for the purpose of ensuring that the pavilion and/or reserved area is undamaged and free of debris upon completion of use. Following use, said pavilion and/or reserved area shall be inspected by the Town. If the same is undamaged and free of debris, said deposit shall be returned. If said area is either damaged or not free of debris, said deposit shall be forfeited to the Town to cover the cost of repair or cleaning. Nothing herein shall prevent the Town from instituting legal proceedings against any person for the recovery of damages caused by the use of any park or park pavilion.

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. 4 of 2019, 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

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by the Elective Chief Executive Officer*.)

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

3. (Final adoption by referendum.)

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

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

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

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

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____

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of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

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

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

(SEAL)

Teresa Morasco
Town Clerk, Town of Batavia

Date: _____, 2019

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: _____

NOTICE OF PUBLIC HEARING BY THE TOWN BOARD
OF THE TOWN OF BATAVIA, NEW YORK

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TO CONSIDER ADOPTING A PROPOSED LOCAL LAW

PUBLIC NOTICE is hereby given that there has been presented to the Town Board of the Town of Batavia, New York on the 16th day of October 16, 2019, proposed Local Law No. 4 of 2019 entitled "A Local Law Amending the Town of Batavia Park Rules and Regulations Law". Said Local Law will amend portions of legislation and allow certain changes by the Town Board by resolution.

PLEASE TAKE FURTHER NOTICE that on 20th day of November, 2019 at 7:00 o'clock in the afternoon of that day the Town Board of the Town of Batavia, New York, will conduct a public hearing at the Batavia Town Hall located at 3833 West Main Street Road in the Town of Batavia, New York, for the purpose of considering the advisability of enacting said proposed Local Law, at which time and place all persons interested will be heard.

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

Dated: Batavia, New York
October 16, 2019

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

RESOLUTION NO. 148:

Councilwoman Michalak offered the following:

EAST PEMBROKE BOAT LAUNCH DONATION

RESOLVED, the Batavia Town Board hereby accepts the Town of Batavia Republican Committees donation of \$5,000 for the East Pembroke Boat Launch; and be it

FURTHER RESOLVED, the funds of \$5,000 be earmarked for the East Pembroke Boat Launch.

Second by: Councilman Zambito

Ayes: Michalak, Zambito, White, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 149:

Councilman Zambito offered the following:

**RESOLUTION TO APPROVE EASEMENT FROM
TOWN OF BATAVIA FIRE DEPARTMENT**

OCTOBER 16, 2019
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FOR THE VIOLET LANE TURN-AROUND

WHEREAS, the Town seeks to create a turn-around at the end of Violet Lane for the purpose of promoting the safe navigation of the street by vehicular traffic, and

WHEREAS, the Town of Batavia Fire Department, Inc. has agreed to grant unto the Town an easement upon and over their lands necessary to construct said turn-around,

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Batavia is hereby authorized to accept from the Town of Batavia Fire Department, Inc, an easement over and upon such lands as described on the attached "Schedule A" to permit the construction of the turn-around, and be it further

RESOLVED, that the Supervisor is hereby authorized to sign all necessary instruments of conveyance to carry out this Resolution, and to arrange for recording of same in the Genesee County Clerk's Office.

Second by: Councilwoman Michalak
Ayes: Zambito, Michalak, White, Underhill
APPROVED by unanimous vote (4-0)

EASEMENT

THIS INSTRUMENT, made this _____ day of _____, 20__,

BETWEEN

TOWN OF BATAVIA FIRE DEPARTMENT, INC., a New York Corporation with an office at 8382 Lewiston Road, Batavia New York 14020, hereinafter referred to as "Owner", and

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

W I T N E S S E T H

WHEREAS, Owner is the owner of all that tract or parcel of land situated in the Town of Batavia, County of Genesee and State of New York, said lands being locally known as part of 8382 Lewiston Road, Tax Parcel Number 9.-1-194.1, and as conveyed to Owner by Deed recorded in the Genesee County Clerk's Office in Liber 907 of Deeds at page 376 (the "Property"); and

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WHEREAS, the Town seeks the permission of the Owner for an easement to construct and maintain a turn-around at the end of the Violet Lane, which abuts the Property, over a portion of the Property as more described on “Schedule A” attached hereto,

NOW, THEREFORE, the Owner, in consideration of the sum of One Dollar (\$1.00), lawful money of the United States, and other good and lawful consideration paid by the Town, receipt of which is hereby acknowledged, does hereby grant and release unto the Town, its successors and assigns, a permanent and perpetual easement and right of way over property of the Owner generally described above and more particularly described as follows:

See annexed “SCHEDULE A”

Intending to convey the following, as more fully set forth on “SCHEDULE A”, annexed hereto and made a part hereof: a parcel of land of approximately 40 feet by 60 feet located at the Northwest corner of the Property (the “Easement Area”).

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Owner does hereby grant to the Town a perpetual, exclusive easement over, across, under, through and upon that portion of the Property as described on Schedule A for the purpose of constructing and maintaining a roadway thereon.
2. The Town shall have the right to remove trees and shrubs or branches from within the Easement Area which is necessary in the sole, but reasonable, opinion of the Town, for the Town’s intended use of the Easement Area as herein provided. Notwithstanding anything to the contrary, the Town shall not be liable to Owner for the value of trees, shrubs or branches that are removed from within the Easement Area, or any value that they may add to the property of Owner.
3. The easement granted herein is permanent and perpetual and shall for all purposes be construed as a covenant running with the land and shall be binding upon the heirs, distributees, successors and assigns of Owner.
4. Owner does hereby lawfully covenant with the Town that the Owner is lawfully seized and possessed of the real estate above described and that said Owner has a good and lawful right to convey it or any part of it to the Town.
5. This Agreement shall be binding on and run to the benefit of the parties hereto and their successors and/or assigns.

IN WITNESS WHEREOF, Owner has executed this instrument on this _____ day of

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_____, 20__.

State of New York)
County of Genesee) ss.

On this _____ day of _____, 20__, before me, the undersigned, personally appeared _____ of the Grantor herein, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed herein, acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person or entity upon behalf of which the individual acted, executed the instrument.

Notary Public

SCHEDULE A

All that tract or parcel of land, situate in the Town of Batavia, County of Genesee, State of New York, being part of Lot 7, Section 9, Township 12, Range 1 of the Holland Purchase and further described as follows.

Beginning at a point in the east bounds of Violet Lane at the southwest corner of lands conveyed to David C. & Marilyn J. Pastecki, as recorded in liber 894 of deeds at page 64; thence

- 1) N 89°-56'-36" E along the south bounds of said parcel conveyed to Pastecki, a distance of 40.00 feet to a point; thence
- 2) S 0°-48'-28" E through the lands conveyed to Town of Batavia Fire Dept., Inc., as recorded in liber 907 of deeds at page 376, a distance of 60.00 feet to a point; thence
- 3) S 89°-56'-36" W through said lands conveyed to Town of Batavia Fire Dept., Inc., a distance of 40.00 feet to a point along the easterly bounds of a water line easement conveyed to The County of Genesee, as recorded in liber 826 of deeds at page 245 as Parcel 1; thence
- 4) N 0°-48'-28" W through said lands conveyed to Town of Batavia Fire Dept., Inc., along said water easement bounds and partially along the east bounds of Violet Lane, a distance of 60.00 feet to the point of beginning.

Containing 0.055 acres.

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The above-described parcel being shown as Proposed Easement to the Town of Batavia on an Easement Map, prepared by Welch & O'Donoghue, Land Surveyors, P.C., dated June 28, 2018 and designated as Job No. G18-4451S-B.

RESOLUTION NO. 150:

Councilwoman White offered the following:

**ESTABLISH LINE ITEMS
FOR RECORDS MANAGEMENT LGRMIF GRANT**

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

A1460.101 Temporary Part-time- Clerk – LGRMIF Grant
A1460.102 Temporary Part-time Clerk - LGRMIF Grant
A1460.200 LGRMIF Grant Equipment
A1460.400 LGRMIF Grant Contractual

Second by: Councilwoman Michalak

Ayes: White, Michalak, Zambito, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 151:

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO AMEND AND INCREASE 2019 BUDGET
LGRMIF GRANT AWARD**

WHEREAS, the Town of Batavia received notification on September 19, 2019 from the State Education Department that the Town has been awarded a Shared Services Local Government Records Management Improvement Fund (LGRMIF) Grant in the amount of one hundred, eleven thousand, four hundred, fifty-six dollars (\$111,456.00) for Shared Services Document Conversion and Access (notice attached); and

WHEREAS, the 2019 Budget needs to be modified to account for these funds.

NOW, THEREFORE, BE IT

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

A3060 Revenues	\$111,456.00
A1460.101 Temporary Part-time- Clerk-A LGRMIF Grant	\$ 4,800.00
A1460.102 Temporary Part-time Clerk -B LGRMIF Grant	\$ 4,800.00
A1460.200 LGRMIF Grant Equipment	\$ 92,976.00
A1460.400 LGRMIF Grant Contractual	\$ 5,520.00

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A9030.800 Social Security

\$ 3,360.00

Second by: Councilwoman White
Ayes: Underhill, White, Michalak, Zambito
APPROVED by unanimous vote (4-0)

RESOLUTION NO.152:

Councilwoman Michalak offered the following:

**PURCHASE OF LASERFICHE AVANTE
ELECTRONIC CONTENT MANAGEMENT SOFTWARE**

WHEREAS, the Town of Batavia was awarded the Local Government Records Management Improvement Fund (LGRMIF) Grant for Shared Services document conversion and access; and

WHEREAS, the grant includes funds to purchase Laserfiche Avante Electronic Content Management Software; and

WHEREAS, General Codes submitted a proposal to purchase Laserfiche Avante software at a cost of \$35,823.00 in accordance with SHI New York State Contract #PD67647 (attached); and

WHEREAS, the grant amount for the software program is \$32,630.00 and the reminder amount of \$3,193.00 for Application Extender conversion to Laserfiche is a Town of Batavia cost.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase of Laserfiche Avante Electronic Content Management Software from General Codes at a cost of \$35,823.00, and be it

FURTHER RESOLVED, the Town Supervisor is hereby authorized and directed to execute the proposal agreement between the Town of Batavia and General Codes, a copy of which annexed hereto and made a part of the minutes; and be it

FURTHER RESOLVED, the expenditure will be from line items:

A1460.200	\$32,630.00
A1410.201	\$ 3,193.00

Second by: Councilman Zambito
Ayes: Michalak, Zambito, White, Underhill
APPROVED by unanimous vote (4-0)

RESOLUTION NO. 153:

Councilman Zambito offered the following:

**OCTOBER 16, 2019
REGULAR TOWN BOARD MEETING**

**PURCHASE OF SERVERS AND WORKSTATIONS
SHARED SERVICES LOCAL GOVERNMENT
RECORDS MANAGEMENT IMPROVEMENT FUND GRANT PROJECT**

WHEREAS, the Town of Batavia was awarded the Local Government Records Management Improvement Fund (LGRMIF) Grant for Shared Services document conversion and access with the Towns of Alexander and Byron; and

WHEREAS, the grant includes funds to purchase two servers and two workstations from Dell; and

WHEREAS, Dell submitted quotes to purchase one Dell PowerEdge R740 Disaster Recovery Server at a cost of \$22,000.00, one Dell PowerEdge R740 Server at a cost of \$31,750.00, and two Dell OptiPlex 7770 Workstations at a cost of \$1,454.14 each, New York State Contract #56AHC (attached); and

WHEREAS, the grant will cover the cost of the servers and workstations less \$5,000, which is a cost to the Town of Batavia as in-kind service.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase of one Dell PowerEdge R740 Disaster Recovery Server at a cost of \$22,000.00, one Dell PowerEdge R740 Server at a cost of \$31,750.00, and two Dell OptiPlex 7770 Workstations at a cost of \$1,454.14 each, New York State Contract #56AHC, a copy of quotes are annexed hereto and made a part of the minutes; and be it

FURTHER RESOLVED, the servers will be for the Town of Batavia and the workstations are for the Towns of Alexander and Byron, and be it

FURTHER RESOLVED, the expenditure will be from line items:

A1460.200	\$51,658.28
A1680.200	\$ 5,000.00

Second by: Councilwoman Michalak

Ayes: Zambito, Michalak, White, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 154:

Councilwoman White offered the following:

**PURCHASE OF SCANNERS AND SONICWALLS
SHARED SERVICES LOCAL GOVERNMENT
RECORDS MANAGEMENT IMPROVEMENT FUND GRANT PROJECT**

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WHEREAS, the Town of Batavia was awarded a Local Government Records Management Improvement Fund (LGRMIF) Grant for Shared Services document conversion and access with the Towns of Alexander and Byron; and

WHEREAS, the grant includes funds to purchase two document scanners and two SonicWall appliances; and

WHEREAS, the Town Clerk solicited quotes from MWBE vendors for two scanners and three SonicWall appliances; and

WHEREAS, Zip Networks submitted a total quote of \$10,363.95 to purchase two DR-6030C document scanners (\$3,169.07 each), two sonicwall TZ400 (\$1,011.44 each) and one sonicwall TZ600 (\$2,002.93) (attached); and

WHEREAS, the grant will cover the cost of the two scanners and two sonicwalls. The sonicwall TZ600 is a cost to the Town of Batavia as in-kind service.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase of two DR-6030C document scanners (\$3,169.07 each), two sonicwall TZ400 (\$1,011.44 each) and one sonicwall TZ600 (\$2,002.93) for a total cost of \$10,363.95, a copy of the quote is annexed hereto and made a part of the minutes; and be it

FURTHER RESOLVED, the TZ600 sonicwall will be for the Town of Batavia and the scanners and TZ400 sonicwalls are for the Towns of Alexander and Byron, and be it

FURTHER RESOLVED, the expenditure will be from line items:

A1460.200	\$8,361.02
A1680.200	\$2,002.93

Second by: Councilwoman Michalak

Ayes: White, Michalak, Zambito, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 155:

Deputy Supervisor Underhill offered the following:

PURCHASE OF CYBERPOWER
SMART APP SINEWAVE BATTERY BACKUP

WHEREAS, the Town of Batavia was awarded a Local Government Records Management Improvement Fund (LGRMIF) Grant for Shared Services document conversion and access with the Towns of Alexander and Byron; and

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WHEREAS, the grant include cost for two servers; and

WHEREAS, two battery backups are needed to protect the servers; and

WHEREAS, Hurricane Technology recommended the purchase of two CyberPower Smart App Sinewave UPS Systems; and

WHEREAS, the Town Clerk received a quote from Amazon at a cost of \$759.95 each.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase of two CyberPower PR2200LCDRTXL@U Smart App Sinewave UPS Systems for a total cost of \$1,519.90 from Amazon, a copy of the quote is annexed hereto and made a part of the minutes; and be it

FURTHER RESOLVED, the expenditure will be from line item A1680.200.

Second by: Councilwoman White

Ayes: Underhill, White, Michalak, Zambito

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 156:

Councilwoman Michalak offered the following:

**AUTHORIZING THE HIRING OF TWO TEMPORARY PART-TIME CLERKS
SHARED SERVICES WITH THE TOWNS ALEXANDER AND BYRON
LOCAL GOVERNMENT RECORDS MANAGEMENT
IMPROVEMENT FUND GRANT PROJECT**

WHEREAS, the Town of Batavia was awarded a Local Government Records Management Improvement Fund (LGRMIF) Grant for Shared Services document conversion and access with the Towns of Alexander and Byron; and

WHEREAS, the Local Records Management Improvement Fund grant is structured that temporary part-time Clerks be hired by the Town of Batavia, and

WHEREAS, the Town of Batavia solicited for applicants and the Town Clerk's will jointly be reviewing, interviewing and determining the best candidate for the position.

NOW, THEREFORE BE IT

RESOLVED, that the Batavia Town Board hereby authorizes the Town Clerk to hire two temporary part-time clerks at a rate of \$15.00 per hour to complete the necessary work for LGRMIF Shared Services Grant Project, not to exceed a total of 320 hours each. Said Clerk's will be working in the Towns of Alexander and/or Byron; and be it

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FURTHER RESOLVED, as per the Town of Batavia policy, the two temporary part-time clerks are subject to a physical, background and driver's license check and drug and alcohol testing; and be it

FURTHER RESOLVED, the expenditures will be from line items A1460.101 and A1460.102.

Second by: Councilman Zambito

Ayes: Michalak, Zambito, White, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 157:

Councilman Zambito offered the following:

**RESOLUTION TO APPROVE A SECOND AMENDED LAND LEASE AGREEMENT
BETWEEN**

JASON R. TOMPOROWSKI AND THE TOWN OF BATAVIA

WHEREAS, Jason R. Tomporowski and the Town of Batavia entered into a contract, entitled, "Land Lease Agreement for a Portion of Landfill Property" in February 2010; and

WHEREAS, Jason R. Tomporowski has requested to continue to lease from the Town of Batavia the parcel consisting of approximately 9 acres of land in the northeast corner of a parcel owned by the Town, which is located at 3381 Harloff Road, in the Town of Batavia, and

WHEREAS, the aforesaid parcel is being used for the Town landfill, and the proposed portion thereof consists of acreage that is not tillable and has very limited use, and

WHEREAS, the Town of Batavia is not currently using the proposed lease area for any governmental purposes and does not anticipate the same during the 5 year term of the proposed Lease Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that a proposed "Second Amended Land Lease Agreement for a Portion of Landfill Property", by and between the Town of Batavia and Jason R. Tomporowski, a copy of which is annexed and made part of the Town Board Minutes is hereby approved, and the Town Supervisor is authorized and directed to execute this Agreement on behalf of the Town of Batavia, and be it further

RESOLVED that the approximate 9 acre parcel to be leased pursuant to this Agreement is hereby found and declared to be surplus property that will not and cannot be used by the Town of Batavia for any municipal or governmental purposes during the term of this Lease Agreement.

Second by: Councilwoman Michalak

Ayes: Zambito, Michalak, White, Underhill

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APPROVED by unanimous vote (4-0)

RESOLUTION NO. 158:

Councilwoman White offered the following:

SURPLUS EQUIPMENT

WHEREAS, the Town of Batavia has determined that the following items are no longer needed for Town use and that they should be sold at auction and deleted from inventory:

1. Clarke 7” Metal Band Saw
2. Ford Smith 60 gallon hydraulic tank and pump
3. Stihl FS 90R String Trimmer
4. 2004 International 4300 DT 466 6 wheel dump truck VIN 1HTMNAAM84H615383 with plow and salter
5. 2006 Ford Van VIN 1FTNE24L26HA09686
6. Trimble GeoXH GPS
7. Zephyr Antenna

NOW THEREFORE BE IT,

RESOLVED, the Batavia Town Board hereby authorizes the Highway Superintendent to surplus the items listed above and sell them at auction.

Second by: Councilman Zambito

Ayes: White, Zambito, Michalak, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 159:

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO ESTABLISH POSITION
UTILITIES OPERATIONS SUPERINTENDENT**

RESOLVED, the Batavia Town Board hereby establishes the position of Utilities Operation Superintendent (MSD222 duties statement attached).

Second by: Councilwoman White

Ayes: Underhill, White, Michalak, Zambito

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 160:

Councilwoman Michalak offered the following:

**ESTABLISH LINE ITEMS
FOR WATER AND SEWER**

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

WATER

SW8340.109 Personal Services-Schwartz

SEWER 1

SS18120.109 Personal Services-Schwartz

SEWER 2

SS28120.109 Personal Services-Schwartz

Second by: Councilman Zambito

Ayes: Michalak, Zambito, White, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 161:

Councilman Zambito offered the following:

AUTHORIZING BUDGET TRANSFERS FOR 2019

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

Water Fund:

<u>From</u>		<u>Amount</u>	<u>To</u>	
SW8340.108	Employee	\$3,361.00	SW8340.109	Schwartz

Sewer 1 Fund:

<u>From</u>		<u>Amount</u>	<u>To</u>	
SS18120.108	Employee	\$3,681.00	SS18120.109	Schwartz

Sewer 2 Fund:

<u>From</u>		<u>Amount</u>	<u>To</u>	
SS28120.108	Employee	\$3,381.00	SS28120.109	Schwartz

Second by: Councilwoman White

Ayes: Zambito, White, Michalak, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 162:

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Councilwoman White offered the following:

RESOLUTION TO HIRE UTILITIES OPERATIONS SUPERINTENDENT

WHEREAS, the Town of Batavia desires to hire Thomas C. Schwartz to the position of Utilities Operations Superintendent; and

WHEREAS, Thomas C. Schwartz satisfies the requirements and qualifications of the position of Utilities Operations Superintendent; and

WHEREAS, it is anticipated that the hiring to the position of Utilities Operations Superintendent will most effectively ensure the provision of necessary services to the Town and its residents.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the hiring of Thomas C. Schwartz as a permanent full-time Utilities Operations Superintendent at a rate of \$41.83 per hour, with a start date on or after October 17, 2019; and be it

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

FURTHER RESOLVED, the expenditure will be appropriated from line items SS1-8120.109, SS2-8120.109, and SW8340.109; and be it

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

Second by: Councilwoman Michalak

Ayes: White, Michalak, Zambito, Underhill

APPROVED by unanimous vote (4-0)

Abstract No. 10-2019: Motion Deputy Supervisor Underhill, second Councilman Zambito to authorize the Supervisor to pay the following vouchers:

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General	\$105,388.63
Highway	196,178.86
Sewer No. 1	10,659.05
Sewer No. 2	10,096.56
Water	64,669.03
Kings PS	3,979.20
Agri Bus PS	27,586.00
Saile Sewer	3,376.92
Ellicott Trail	4,320.87
Highway Equipment	258.08
Townline Joint	1,239.08
Total	\$42,752.28

Check numbers 22384 -22398, 22400 – 22461, 22463 SM: 1125, ONLINE: \$82,353.26

Ayes: Zambito, Michalak, White, Underhill

MOTION CARRIED by unanimous vote (4-0)

DEPARTMENT REPORTS:

Supervisor’s Report:

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

GAM – meeting is tomorrow evening at 7:00 P.M. Hosted by the Town of Pavilion

COMMUNICATIONS:

The Town Clerk reported on the following:

September Town Clerk monthly report collected a total of \$18,293.80, remitted \$11,331.88 to the Supervisor for the Local Share.

Training- FEMA Region II Scoping Priorities Meeting & Workshop is at Batavia City Hall November 5, 2019, Managing Chaos Workshop, presented by NYS Division of Homeland Security and Emergency Services is November 14, 2019 In Oriskany, New York, and the 2019 Giant Hogweed/MAM/Spotted Lanternfly Training Workshop is October 29, 2019 in Lakeville, New York. Town officials have been notified.

ADJOURNMENT:

Motion Councilman Zambito, second Councilwoman Michalak to adjourn the Regular Town Board Meeting at 7:39 P.M.

Ayes: Zambito, Michalak, White, Underhill

MOTION CARRIED by unanimous vote (4-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk