

**NOVEMBER 20, 2019
REGULAR TOWN BOARD MEETING**

Town Hall

7:00 P.M.

Dan Underhill, Deputy 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
Dave Miller, Alexander Deputy Supervisor

The Supervisor called the meeting to order at 7:11 P.M.

Public Hearing Local Law 4 of 2019- The Supervisor called the Public Hearing to Order for Local Law 4 of 2019 – Amending Park Rules and Regulations at 7:12 P.M. - Minutes for public hearing entered separately.

October 16, 2019 Public Hearing – Establishment of the Agri-Business Park Sewer Improvement Area (2019), October 16, 2019 Public Hearing –Local Law #3 of 2019- Tax Cap Override and October 16, 2019 Regular Town Board Meeting: Motion Deputy Supervisor Underhill, second Councilwoman White to approve the minutes as written.

Ayes: Underhill, White, Michalak, Zambito

Abstain: Post

MOTION CARRIED (4-ayes, 1-abstain)

November 6, 2019 Special Town Board Meeting, November 6, 2019 Public Hearing-Sewer Rents, November 6, 2019 Public Hearing-Water Rates, and November 6, 2019 Public Hearing-2020 Town Budget: Motion Deputy Supervisor Underhill, second Councilman Zambito the minutes as written.

Ayes: Underhill, Zambito, White, Michalak, Post

MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 164:

Councilwoman White offered the following:

TOWN OF BATAVIA SEWER RATES – 2020

WHEREAS, pursuant to General Municipal Law Section 452 as amended, impositions of sewer rates 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 rates are imposed to pay for the cost of wastewater treatment and

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operation and maintenance of the sewer lines;

WHEREAS, in Sewer District No. 1 the sewer rates for 2020 has been set at seven dollars and nine cents (\$7.09) per 1000 gallons;

WHEREAS, in Sewer District No. 2 the sewer rates for 2020 has been set at seven dollars and nine cents (\$7.09) per 1000 gallons;

WHEREAS, as required by law and in conjunction with the public hearing held November 6, 2019 for the 2020 Town Budget, these rates were entered in and made a part of the record.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the imposition of the aforementioned sewer rates in Sewer Districts No. 1 and No. 2 for one (1) year beginning January 1, 2020; and be it further

RESOLVED, the sewer rates are to be paid quarterly in the months of May, August and November, 2020 and February, 2021.

Second by: Councilman Zambito

Ayes: White, Zambito, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 165:

Deputy Supervisor Underhill offered the following:

TOWN OF BATAVIA WATER RATES – 2020

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

WHEREAS, as a courtesy to the consumers, the Town Board held a public hearing on November 6, 2019 for the establishment of the 2020 water rates; and

WHEREAS, the base water rate for May 2020 to February 2021 is set at six dollars and forty-two cents (\$6.42) per 1,000 gallons; and

WHEREAS, the agricultural water rate for May 2019 to February 2020 is set at five dollars and ten cents (\$5.10) per 1,000 gallons; and

WHEREAS, the base rate applies to all meters that are not dedicated to use within farming operations; and

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WHEREAS, the 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, and

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 new 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

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the imposition of the aforementioned base water rate and agricultural water rate for one (1) year beginning January 1, 2020, and be it further

RESOLVED, the water usage is to be billed quarterly and are to be paid quarterly in the months of May, August and November, 2020 and February, 2021.

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

RESOLUTION NO. 166:

Supervisor Post offered the following:

ADOPTION OF 2020 TOWN ANNUAL BUDGET

WHEREAS, the Town of Batavia Chief Fiscal Officer prepared a Tentative Budget for review by the Batavia Town Board, and

WHEREAS, the Town Board met in Budget sessions among themselves and with Town Employees in the formulation of the Preliminary Budget; and

WHEREAS, the 2020 Preliminary Budget was adopted on October 16, 2019 and after which a Public Hearing was held on November 6, 2019 for all interested parties to be heard; and

WHEREAS, on November 7, 2019 the 2020 Preliminary Budget was revised to increase the General fund A8164.4 - line items and to adjust between line items in Sewer 2 and in Water.

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NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby adopts the November 7, 2019 Revised Preliminary Town Budget as the 2020 Annual Budget of the Town of Batavia.

Second by: Councilwoman Michalak

Ayes: Post, Michalak, Zambito, White, Underhill

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 167:

Councilwoman Michalak offered the following:

RESOLUTION ADOPTING LOCAL LAW No. 4 of 2019

WHEREAS, proposed Local Law No. 4 of 2019 of the Town of Batavia entitled “A Local Law Amending the Town of Batavia Park Rules and Regulations Law”, which proposed Local Law in its final form was presented to the Town Board at the meeting held on October 16, 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 November 20, 2019, 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. 4 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. 4 of 2019 be and the same hereby is adopted; and

BE IT FURTHER RESOLVED, that a certified copy of said Local Law No. 4 of 2019 be filed with the New York State Secretary of State in accordance with Law.

Second by: Councilman Zambito

Ayes: Michalak, Zambito, White, Underhill, Post

APPROVED by unanimous vote (5-0)

Local Law Filing

New York State Department of State

41 State Street, Albany, NY 12231

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

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

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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.)**

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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 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

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on _____ 20____, became operative.

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

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

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

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

(SEAL)

Teresa 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

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Town
~~Village~~

Date: _____

RESOLUTION NO. 168:

Councilman Zambito offered the following:

**RESOLUTION AUTHORIZING AMENDMENT TO
PARK FACILITIES USE APPLICATION AND RULES AND REGULATIONS**

WHEREAS, with the adoption of Local Law No. 4 of 2019 the Park Facilities Use Application and Rules and Regulations need to be amended.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby adopts the following Park Facilities Rules and Regulations, which includes setting of use and deposit fees:

A. Conduct.

1. No person shall play or bet at or against any game which is played, conducted, dealt or carried on with cards, dice or other device for money, chips, credit or any other representative of value, nor shall any person maintain or exhibit any gaming table or other instrument of gambling.
2. No person, except authorized peace officers or other law enforcement officers, shall have, carry or transport any firearm, air gun, switchblade, hunting knife, slingshot, dagger, metal knuckles, bow, arrow, or other dangerous weapon.

B. Fires.

No person shall build an open fire, except in park or portable grills. Fires shall be extinguished upon leaving the park.

C. Hunting and molesting wildlife.

No person shall hunt or trap game within any park boundaries. No person shall kill, injure or unnecessarily disturb or molest any wildlife found in a park.

D. Preservation of property and natural features.

No person shall injure, deface, disturb or dirty any part of a park or any buildings, signs, equipment or other property found therein, nor shall any tree, shrub, rock or other mineral be intentionally removed, injured or destroyed.

E. Littering, rubbish, garbage, sewage and noxious material.

1. No person shall leave behind, dump or similarly dispose of materials of any kind in any park. Refuse is not to be dropped, thrown or scattered on park property.
2. No person shall, either within or outside of a park, discharge into, throw, cast, lay, drop or leave in any river, brook, stream, storm sewer or drain flowing into or through a park any substance, matter or thing, either liquid or solid, which may or shall result in the pollution of said river, brook or stream within any park, interfere with the natural resources of any park or endanger the health of visitors to any park.

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3. No person shall have in his possession or control or shall carry in a basket or other container owned by him any glass beverage container, regardless of the contents of such container.

4. Anyone using park facilities in the Town of Batavia shall be required to remove when leaving the park any trash, garbage, litter, or any items of any kind or nature that are brought into the park.

F. Alcoholic beverages and glass bottles.

The consumption and/or possession of alcoholic beverages (including alcohol, spirits, liquor, wine, beer, cider, and every liquid or solid, patented or not, containing alcohol, sprits, wine or beer and capable of being consumed by a human being), as well as the possession or use of glass bottles containing any beverage, shall be prohibited at all times from any and all areas of parks located within and maintained by the Town of Batavia, including pavilions, parking lots and rights-of-way.

G. Dogs, cats and other household pets.

No person shall bring into or keep in any park any dog, cat, household pet or other animal destructive to birds and other wildlife, except that dogs or cats are permitted if held in control by a leash while in a park.

H. Inflatable structures.

Inflatable structures, defined as any games or equipment of any kind or nature that are inflated by forced air, are prohibited.

I. Traffic rules.

1. No person shall use or operate any motor vehicle within a park except upon roadways specifically designated for the operation of motor vehicles.

2. No vehicle shall be operated on any park road or drive at a speed exceeding 10 miles per hour.

3. No person or vehicle shall enter or remain in any park, park road or drive between the hours of 10:00 p.m. and sunrise., except as otherwise provided by the Town Board, by resolution.

4. No person shall park or cause to be parked any vehicle at any point where a sign prohibiting parking has been erected pursuant to direction of the Town Board.

5. In case of an emergency, any portion of a park may be closed to the public, to vehicles, or to designed persons.

J. Use of Park Facilities.

1. All users of park facilities must comply with the Park Rules and Regulations as adopted from time to time by the Town Board.

2. Every application for reserved use of the park facilities shall be accompanied by a deposit of \$30.00 and resident park fee of \$30.00 or non-resident park fee of \$50.00, pursuant to the Town of Batavia Parks Law.

3. Certificate of Insurance required for applicants seeking reserved use of park facilities for business or organizational purposes: General Liability Insurance- \$1,000,000 per occurrence/\$2,000,000 aggregate naming the Town as an unrestricted additional insured on the user's policy. The policy naming the Town as an additional insured shall: be an insurance policy from a "secured" New York State licensed insurer; contain a 30 day notice of cancellation; state that the organization's coverage shall be primary coverage for the Town; and additional insured status shall be provided with ISO endorsement CG2026 or its equivalent. The user agrees to indemnify the Town for any applicable deductibles ☞ Enclose a copy of the endorsement providing additional insured status

K. Emergencies.

In case of a medical emergency; contact 911. In case of emergency relating to the use of the Park Facility contact the Town Hall at (585)343-1729 or (585)356-7153.

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and be it further

RESOLVED, the Batavia Town Board hereby adopts the Park Facility Use Application, a copy of which is annexed hereto and made a part of the minute; and be it further

RESOLVED, the Town parks will open for the season, weather permitting, on May 15 and will close for the season on September 30.

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

APPLICATION FOR USE OF PARK FACILITIES

Today's Date: _____ **Date Requested:** _____

Pavilion Requested: ____A ____B

PARK USE FEE Town Resident \$30.00

PARK USE FEE Non-Resident \$50.00

KEY DEPOSIT (*refundable) \$30.00

There will be **no refund given** for a cancellation made within 10 days of the reservation date.

Initials _____

I have read the park regulations attached to this form and agree to observe all rules and procedures stated herein.

Initials _____

I understand that I will be held responsible for any damages resulting from our use of the facility.

Initials _____

*** Key Deposit** -deposits will be kept if any of the park rules or regulations are violated.

Initials _____

*****REMINDER THIS IS A CARRY-IN CARRY-OUT PARK SYSTEM***
INFORMATION ABOUT YOUR GROUP**

Name of Organization or Individual: _____

CERTIFICATE OF INSURANCE REQUIRED FOR ORGANIZATIONS Date Rec'd _____

Person In Charge: _____

Mailing Address: _____

Telephone: (Day) _____ (Night) _____

Email Address _____

INFORMATION ABOUT YOUR INTENDED USE OF MUNICIPAL FACILITIES

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Purpose of Use: _____

Total Participants Expected: _____

Person(s) other than applicant allowed to pick up key, park permit and deposit:

HOLD HARMLESS AGREEMENT

The undersigned is over 21 years of age and has read this form and attached regulations and agrees to comply with them. He/she agrees to be responsible to the municipality for the use and care of the facilities. He/she on behalf of _____ does hereby covenant and agree to defend, indemnify and hold harmless the **Town of Batavia** from and against any and all liability, loss damages, claims or actions (including costs and attorney's fees) for bodily injury and/or property damage to the extent permissible by law, arising out of or in connection with the actual or proposed use of the **Town of Batavia's** property, facilities and or services by _____.

Signature of Person in Charge

OFFICE USE ONLY

Date & Time Received _____ **Permit Issued** _____

Park Use Fee Received: Amount _____ **Check #** _____ **Cash** _____

Key Deposit Received: **Check or Cash (circle one)**

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PARK FACILITIES RULES AND REGULATIONS

Adopted by the Town Board of the Town of Batavia on _____ by Resolution No. ____

A. Conduct.

1. No person shall play or bet at or against any game which is played, conducted, dealt or carried on with cards, dice or other device for money, chips, credit or any other representative of value, nor shall any person maintain or exhibit any gaming table or other instrument of gambling.
2. No person, except authorized peace officers or other law enforcement officers, shall have, carry or transport any firearm, air gun, switchblade, hunting knife, slingshot, dagger, metal knuckles, bow, arrow, or other dangerous weapon.

B. Fires.

No person shall build an open fire, except in park or portable grills. Fires shall be extinguished upon leaving the park.

C. Hunting and molesting wildlife.

No person shall hunt or trap game within any park boundaries. No person shall kill, injure or unnecessarily disturb or molest any wildlife found in a park.

D. Preservation of property and natural features.

No person shall injure, deface, disturb or dirty any part of a park or any buildings, signs, equipment or other property found therein, nor shall any tree, shrub, rock or other mineral be intentionally removed, injured or destroyed.

E. Littering, rubbish, garbage, sewage and noxious material.

1. No person shall leave behind, dump or similarly dispose of materials of any kind in any park. Refuse is not to be dropped, thrown or scattered on park property.
2. No person shall, either within or outside of a park, discharge into, throw, cast, lay, drop or leave in any river, brook, stream, storm sewer or drain flowing into or through a park any substance, matter or thing, either liquid or solid, which may or shall result in the pollution of said river, brook or stream within any park, interfere with the natural resources of any park or endanger the health of visitors to any park.
3. No person shall have in his possession or control or shall carry in a basket or other container owned by him any glass beverage container, regardless of the contents of such container.
4. Anyone using park facilities in the Town of Batavia shall be required to remove when leaving the park any trash, garbage, litter, or any items of any kind or nature that are brought into the park.

F. Alcoholic beverages and glass bottles.

The consumption and/or possession of alcoholic beverages (including alcohol, spirits, liquor, wine, beer, cider, and every liquid or solid, patented or not, containing alcohol, sprits, wine or beer and capable of being consumed by a human being), as well as the possession or use of glass bottles containing any beverage, shall be prohibited at all times from any and all areas of parks located within and maintained by the Town of Batavia, including pavilions, parking lots and rights-of-way.

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G. Dogs, cats and other household pets.

No person shall bring into or keep in any park any dog, cat, household pet or other animal destructive to birds and other wildlife, except that dogs or cats are permitted if held in control by a leash while in a park.

H. Inflatable structures.

Inflatable structures, defined as any games or equipment of any kind or nature that are inflated by forced air, are prohibited.

I. Traffic rules.

1. No person shall use or operate any motor vehicle within a park except upon roadways specifically designated for the operation of motor vehicles.
2. No vehicle shall be operated on any park road or drive at a speed exceeding 10 miles per hour.
3. No person or vehicle shall enter or remain in any park, park road or drive between the hours of 10:00 p.m. and sunrise., except as otherwise provided by the Town Board, by resolution.
4. No person shall park or cause to be parked any vehicle at any point where a sign prohibiting parking has been erected pursuant to direction of the Town Board.
5. In case of an emergency, any portion of a park may be closed to the public, vehicles or to designed persons.

J. Use of Park Facilities.

1. All users of park facilities must comply with the Park Rules and Regulations as adopted from time to time by the Town Board.
2. Every application for reserved use of the park facilities shall be accompanied by a deposit of \$30.00 and resident park fee of \$30.00 or non-resident park fee of \$50.00, pursuant to the Town of Batavia Parks Law.
3. Certificate of Insurance required for applicants seeking reserved use of park facilities for business or organizational purposes: General Liability Insurance- \$1,000,000 per occurrence/\$2,000,000 aggregate naming the Town as an unrestricted additional insured on the user's policy. The policy naming the Town as an additional insured shall: be an insurance policy from a "secured" New York State licensed insurer; contain a 30 day notice of cancellation; state that the organization's coverage shall be primary coverage for the Town; and additional insured status shall be provided with ISO endorsement CG2026 or its equivalent. The user agrees to indemnify the Town for any applicable deductibles ☞ Enclose a copy of the endorsement providing additional insured status

K. Emergencies.

In case of a medical emergency; contact 911. In case of emergency relating to the use of the Park Facility contact the Town Hall at (585)343-1729 or (585)356-7153.

RESOLUTION NO. 169:

Councilwoman White offered the following:

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**AUTHORIZING PARTICIPATION IN
YEAR 2020 JOINT YOUTH PROGRAM**

WHEREAS, the Town of Batavia has previously participated in a Joint Youth Project along with the following communities: the City of Batavia (Program R006); the Town and Village of Oakfield and Town of Alabama (Program R005); the Town and Village of Bergen and the Town of Byron (Program R002); and the Town and Village of Elba (Program R001), and

WHEREAS, the Town of Batavia's contribution to this joint youth project is \$6,251.00.

NOW, THEREFORE, BE IT

RESOLVED, that the Batavia Town Board hereby approves and authorizes the Town's participation in the aforementioned Joint Youth Project in the year 2020; and be it further

RESOLVED, that the year 2020 Joint Youth Project as herein described is approved, as are Town's contributions as specified for this program in the year 2020:

<u>Programs</u>	<u>Town of Batavia Share</u>
City of Batavia (R006)	\$ 3,442.00
Oakfield/Alabama (R005)	\$ 997.00
Elba (R001)	\$ 906.00
Byron/Bergen (R002)	<u>\$ 906.00</u>
Total	\$6,251.00

Second by: Deputy Supervisor Underhill

Ayes: White, Underhill, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 170:

Deputy Supervisor Underhill offered the following:

TOWN INSURANCE AWARD

WHEREAS, as of November 27, 2001 the Batavia Town Board retained New York Municipal Insurance Reciprocal to provide the Town with insurance coverage; and

WHEREAS, the Insurance Premium for 2020 (November 27, 2019 through November 27, 2020) has been quoted at seventy-two thousand, fifty-one dollars and thirty four cents (\$72,051.34), which includes the Cyber Coverage (quote attached).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby retains New York Municipal Insurance Reciprocal to provide insurance coverage for the Town in the amount seventy-two thousand, fifty-one dollars and thirty-four cents (\$72,051.34), copies of which are annexed hereto and made a part of the

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minutes; and be it further

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute any documents necessary for the award.

Second by: Councilman Zambito

Ayes: Underhill, Zambito, White, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 171:

Supervisor Post offered the following:

EXCESS EMPLOYER'S LIABILITY INSURANCE

RESOLVED, the Batavia Town Board hereby retains Franz-Manno Service Corporation to provide the Town's Excess Employer's Liability Insurance at a cost of One Thousand One Hundred Eleven Dollars, (\$1,111.00).

Second by: Councilwoman Michalak

Ayes: Post, Michalak, Zambito, White, Underhill

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 172:

Councilwoman Michalak offered the following:

TRAINING WORKSHOP

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

Donald Partridge- GFLRPC Fall Local Government Workshop (was) November 15, 2019 at the Batavia Quality Inn. The cost for this training was \$75.00.

Second by: Councilman Michalak

Ayes: Michalak, Zambito, White, Underhill, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 173:

Councilman Zambito offered the following:

AUTHORIZING BUDGET TRANSFERS FOR 2019

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

General Fund:

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From	Amount	To
A1420.403 Attorney Contractual	600.00	A1420.402 Attorney Legal ads
A1989.400 Misc Exp	915.00	A1950.400 Taxes On Proprerty
A1989.400 Misc Exp	1.00	A1940.400 Land Acq
A1989.400 Misc Exp	370.00	A8020.401 Planning Board – Legal fees
A1989.400 Misc Exp	625.00	A8020.402 Planning Board Engineering
A1989.400 Misc Exp	823.00	A8020.404 Planning Board – Codification
A19990.400 Contingency	15,0000.00	A8020.405 Planning Board Master Plan
A8020.406 Planning Board – Training	20.00	A8020.400 Planning Board Supplies

Highway Fund:

From	Amount	To
DA9730.701 Debt Svc Interest	600.00	DA9730.601 Debt Svc Princ
DA5140.100 Brush & Weeds Personnel	1958.00	DA5140.400 Brush & Weeds Contractual
DA5148.100 Svc Other Gov Personnel	1958.00	DA5148.400 Svc Other Gov Contractual
DA5142.400 Snow Removal Contractual	37,164.00	DA5110.400 Gen Repair Contractual
DA5142.400 Snow Removal Contractual	119.00	DA1380.401 Fiscal Agent
DA5142.400 Snow Removal Contractual	9,000.00	DA9060.800 Health Ins

Sewer District #1 Fund:

From	Amount	To
SS1-9730.703 Debt Svc Interest	3,010.00	SS1-9730.603 Debt Svc Principal
SS1-8120.408 Meter Replacement	4,490.00	SS1-9730.603 Debt Svc Principal
SS1-8120.405 Repair Reserve	3,000.000	SS1-8120.400 San Swr Contr

Sewer District #2 Fund:

From	Amount	To
SS2-9730.601 Debt Svc Princ	1,295.00	SS2-9730.701 Debt Svc Int
SS2-9730.703 Debt Svc Int	3,010.00	SS2-9730.603 Debt Svc Princ
SS2-8120.408 Meter Repl	4,490.00	SS2-9730.603 Debt Svc Princ

Water District Fund:

From	Amount	To
SW8310.403 Wtr Admin Consulting	230.00	SW8310.401 Wtr Admin Backflow
SW9710.614 Debt Svc Princ	7,879.00	SW9710.714 Debt Svc Int
SW8340.404 Repl Res	187.00	SW8340.401 TRs & Dist Legal
SW8340.404 Repl Res	25,400.00	SW8340.400 Trs & Dist Contr

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

RESOLUTION NO. 174:

Councilwoman White offered the following:

**RESOLUTION INCREASING
2019 BUDGETARY LINE ITEMS FOR
CONSOLIDATED LOCAL STREET AND
HIGHWAY IMPROVEMENT PROGRAM (CHIPS)**

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PAVE NY AND EXTREME WINTER RECOVERY (EWR)

WHEREAS, the Highway Superintendent received notification from the New York State Department of Transportation that the Town of Batavia's State fiscal year 2019-2020 funding for Consolidated Local Street and Highway Improvement Program (CHIPS) is \$103,662.69, PAVE NY is \$23,662.04 and Extreme Winter Recovery (EWR) is \$18,855.60; and

WHEREAS, the 2019 Budget reflects appropriations of \$103,600.00 for CHIPS, \$23,600.00 for PAVE NY, and none for the EWR.

NOW, THEREFOE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes increasing the 2019 budgetary line items as follows:

DA5112.200 CHIPS	- \$ 63.00	DA3501 CHIPS	- \$ 63.00
DA5112.201 PAVE NY	- \$ 63.00	DA3502 PAVE NY	- \$ 63.00
DA5112.202 EWR	- \$18,856.00	DA3503 EWR	- \$18,856.00

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

RESOLUTION NO. 175:

Deputy Supervisor Underhill offered the following:

**RESOLUTION INCREASING BUDGETARY LINE ITEMS
FREIGHTLINER PASS THROUGH GRANT**

RESOLVED, the Batavia Town Board hereby authorizes the following budget line item increases to account for Freightliner pass through grant:

Revenue Line Item:		Expenditure Line Item:	
A4910	\$235,551.00	A6789.400	\$ 235,551.00

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

RESOLUTION NO. 176:

Supervisor Post offered the following:

RABIES CLINIC- HIGHWAY FACILITY

WHEREAS, the Genesee County Health Department would like to hold a rabies clinic at the

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Town of Batavia Highway Facility on Thursday, February 6, 2020 from 4:00 P.M. to 7:00 P.M.; and

WHEREAS, the Highway Superintendent has no objections to this.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Genesee County Health Department to hold a rabies clinic at the Town of Batavia Highway Facility on Thursday, February 6, 2020 from 4:00 P.M. to 7:00 P.M.; and be it

FURTHER RESOLVED, that Genesee County Health Department must provide the Town of Batavia a Certificate of Liability Insurance naming the Town as additional insured.

Second by: Councilman Zambito

Ayes: Post, Zambito, White, Underhill, Michalak

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 177:

Councilwoman Michalak offered the following:

**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF BATAVIA
AUTHORIZING THE ADOPTION OF THE
2019 GENESEE COUNTY, NEW YORK
HAZARD MITIGATION PLAN**

WHEREAS, all jurisdictions within Genesee County have exposure to natural hazards that increase the risk to life, property, environment, and the County and local economy; and

WHEREAS, pro-active mitigation of known hazards before a disaster event can reduce or eliminate long-term risk to life and property; and

WHEREAS, the Disaster Mitigation Act of 2000 (Public Law 106-390) established new requirements for pre and post disaster hazard mitigation programs; and

WHEREAS, a coalition of Genesee County municipalities with like planning objectives has been formed to pool resources and create consistent mitigation strategies within Genesee County; and

WHEREAS, the coalition has completed a planning process that engages the public, assesses the risk and vulnerability to the impacts of natural hazards, develops a mitigation strategy consistent with a set of uniform goals and objectives, and creates a plan for implementing, evaluating and revising this strategy.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Batavia hereby:

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1. Adopts in its entirety, the 2019 Genesee County Hazard Mitigation Plan (the “Plan”) as the jurisdiction’s Hazard Mitigation Plan and resolves to execute the actions identified in the Plan that pertain to this jurisdiction.
2. Will use the adopted and approved portions of the Plan to guide pre- and post-disaster mitigation of the hazards identified.
3. Will coordinate the strategies identified in the Plan with other planning programs and mechanisms under its jurisdictional authority.
4. Will continue its support of the Hazard Mitigation Steering Committee and Planning Partnership as described within the Plan.
5. Will help to promote and support the mitigation successes of all participants in this Plan.
6. Will incorporate mitigation planning as an integral component of government and partner operations.
7. Will provide an update of the Plan in conjunction with the County no less than every five years.

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

RESOLUTION NO. 178:

Councilman Zambito offered the following:

**ORDER CALLING A PUBLIC HEARING
ON THE FIRE DEPARTMENT CONTRACT**

RESOLVED, that this Town Board hereby schedules a public hearing on the advisability of contracting with the Town of Batavia Fire Department, Inc. for fire protection to be provided to the Town of Batavia Fire Protection District by the Town of Batavia Fire Department, Inc., and that not less than ten (10) days notice of said hearing be published in the Daily News and posted on the signboard of the Town; and be it

FURTHER RESOLVED, that said hearing be scheduled for December 18, 2019 at the Batavia Town Hall at 7:00 o’clock p.m.

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

**NOTICE FOR PUBLIC HEARING ON
FIRE PROTECTION CONTRACT FOR 2020**

Public Notice is hereby given, that a Public Hearing will be held Wednesday, December 18, 2019 by the Town Board of the Town of Batavia, Genesee County, New York, at the Batavia Town Hall located at 3833 West Main Street Road beginning at 7:00 P.M. of that day and for the purpose of considering contracting with the Town of Batavia Fire Department, Inc. for fire

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protection services to be furnished by the Town of Batavia Fire Department, Inc to the Fire Department District established in the Town of Batavia and known as the “Town of Batavia Fire Protection District” upon the following general terms, to wit:

1. The Town of Batavia Fire Department, Inc. shall answer and attend upon all calls in said District;
2. The Town of Batavia Fire Department Inc., shall purchase and maintain such property, crime, dishonesty bond and liability insurance as it deems prudent to protect its interests. Such insurance shall include Automobile Liability, General Liability naming the Town of Batavia, its agents and employees as Additional Insureds, Contractual Liability for this Contract and should include Ambulance Attendants Professional Liability, Volunteer Fire Department Errors and Omissions Liability and Liquor Law Liability coverages. Liability limits of at least \$1,000,000.00 each occurrence, claim or incident are recommended but not required. A Certificate of all liability insurances, providing the Town with at least 30 days written notice of cancellation or nonrenewable, shall be furnished to the Town Attorney, Town Hall, 3833 West Main Street Road, Batavia, New York, 14020.

The Town of Batavia Fire Department, Inc. shall also indemnify and hold harmless the Town of Batavia, its agents and employees from all claims, suits, loss, damages, injuries, liability, cost and expenses arising from the services provided for in this contract and from the activities of the Fire District, its officers, employees and volunteers to the extent this provision is insured by the Town of Batavia Fire District.

3. The Town of Batavia Fire Department, Inc. shall maintain public liability and property damage insurance policies for the benefit of said District and the Town of Batavia, and shall hold said District and Town harmless for losses not covered by insurance;
4. The Town of Batavia Fire Department, Inc. shall be responsible for loss or damage sustained in fire apparatus or other equipment while attending fires in said District;
5. The Town of Batavia and the Town of Batavia Fire Protection District shall pay or provide insurance coverage for authorized items;
6. The Town of Batavia Fire Department, Inc. shall participate in the Genesee County Mutual Aid Plan and reserves certain rights pertaining to said participation;
7. The Town of Batavia Fire Department, Inc. shall reimburse the Town of Batavia should its equipment not be usable;
8. For such services the Town of Batavia Fire Department shall receive the yearly sum of one million, seventy-four thousand, seventy-five dollars (\$1,074,075.00).
9. The Town of Batavia shall plow and provide routine maintenance to the driveway and parking area of the Fire Department’s Fire Hall;
10. The Town of Batavia Fire Department, Inc. shall provide financial data and records to the Town of Batavia.
11. The contract shall run for one (1) year from January 1, 2020 and shall expire on December 31, 2020

All persons interested in the matter will be heard at such time and place specified above.

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Dated: November 20, 2019

Teresa M. Morasco
Town Clerk
Town of Batavia

TOWN OF BATAVIA FIRE DEPARTMENT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2019, by and between the **TOWN OF BATAVIA, NEW YORK**, (hereinafter designated as "Town") and the **TOWN OF BATAVIA FIRE DEPARTMENT, INC.** of Batavia, New York, (hereinafter designated as "Fire Department").

WITNESSETH:

WHEREAS, there has been duly established in the said Town of Batavia a fire protection district known as the "Town of Batavia Fire Protection District" as such' territory is more fully described in the Resolution establishing such District and duly adopted by the Town Board of the said Town of Batavia, Genesee County, New York on 24th day of March, 1948; and

WHEREAS, following a public hearing duly called, the said Town has duly authorized a Contract with the Fire Department for fire protection in said District upon the terms and conditions herein set forth; and

WHEREAS, this Agreement has also been duly authorized by the Directors and membership of the Fire Department, and the Fire Department has provided to the Town certified copies of Resolutions of approval of this Agreement by the Town of Batavia Fire Department Board of Directors and by its membership.

NOW, THEREFORE, the Town does engage the Fire Department to furnish fire protection to said District and the Fire Department agrees to furnish such protection in the manner following, to wit:

1. The equipment and personnel of the Fire Department shall at all times during the term of this Agreement be subject to call for attendance upon any fire occurring in such District, and when notified by any means of a fire within the District, said Fire Department shall respond and attend upon the fire without delay with one or more companies and with suitable fire-fighting equipment and apparatus of the Fire Department. Upon arriving at the scene of the fire, the firefighters of the Fire Department attending shall proceed diligently and in every way reasonably suggested under the circumstances to the extinguishments of the fire and the saving of life and property in connection therewith.

2. The Fire Department covenants and agrees at all times to maintain in force on and in respect to vehicles and equipment owned by it or subject to its control or use, while responding to, attending at or leaving from fires, alarms or calls both inside and outside said District, including, but not limited to, responses in connection with Mutual Aid Plan referred to in Paragraph 5 of this Agreement, an underlying public liability insurance policy for injury to persons and property, including wrongful death, with limits of \$500,000.00 for each person, \$1,000,000.00 for each accident and \$250,000.00 property damage for each

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accident and an excess public liability policy in the amount of \$3,000,000.00 insuring the Fire Department and the Town against any loss by reasons of personal injury including wrongful death, or property damage caused or contributed to by the negligent operation of said vehicles and/or equipment in connection with a fire, alarm or call in or from said District or in connection with a mutual aid response. In addition, the Fire Department agrees at all times to maintain in force public liability insurance to protect itself and the Town from all other losses occurring in its operations other than those arising out of the use and operation of said vehicles and/or equipment to persons for injury, including wrongful death, and to property in amounts for underlying and excess liability similar to that maintained for vehicles and/or equipment. All liability insurance policies must be obtained through insurance companies licensed to do business within the State of New York, must name the Town of Batavia as insured and must be maintained for the life of this Agreement.

The Fire Department shall deliver a copy of the policy of said insurance to the Town prior to the execution of this Agreement, covenants to pay the premiums thereon in timely fashion and to have said insurance policies provide for thirty (30) days written notice to the Town prior to cancellation. If the Fire Department shall fail to pay said premiums due hereunder in a timely fashion, the Town shall have the right to pay the same and to deduct the cost thereof from the amounts due the Fire Department under paragraph 7 of this Agreement.

In addition, the Fire Department hereby covenants and agrees to indemnify and hold the Town harmless from any and all losses and damages which the Town may sustain, suffer or be required to pay by reason of any claims made against said Town for injury to persons or property, including wrongful death, arising out of the performance of this agreement by the Fire Department to the extent that said losses and damages are not fully covered and paid by the insurance referred to herein.

3. Should any loss or damage whatsoever be sustained to the fire apparatus or other equipment, said loss or damage, including the cost of materials and any other special or incidental expenses incurred in the operation of the fire apparatus or equipment of the Fire Department in answering, attending upon or returning from a call for assistance in said Town of Batavia Fire Protection District, irrespective of the cause thereof, shall be a charge upon the Fire Department and not against the Town or against the Town of Batavia Fire Protection District. This fact is taken into consideration by both parties in arriving at the consideration to be paid to the Fire Department pursuant to this Agreement.

4. To the extent that the same is not otherwise provided for by the Genesee County Mutual Aid Plan, by the county of Genesee or by some other source, the Town of Batavia shall pay at its own expense or provide necessary insurance coverage at its expense for any and all claims authorized by law for medical expenses, loss of wages, compensation or other claims arising by reason of the injury or death of a fireman, or member of the Fire Department Emergency Relief Squad, a Fire Police Squad or a Fire Patrol sustained while answering or attending upon or returning from any such call in said District.

5. The Fire Department is hereby authorized by the Town to participate in the Genesee County Mutual Aid Plan and to answer calls for aid and assistance according to said Mutual Aid Plan and System. Nothing contained in this Agreement shall be deemed to prevent the Fire Department from securing reimbursement from any entities other than the Town and the Town of Batavia Fire Protection District for either any loss or damage to its fire apparatus, equipment or materials used for the locality that issues a call for aid or for payments to injured or deceased firemen as provided by any law of the State of New York.

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6. In the event that the fire-fighting equipment owned by the Fire Department is in such condition that said Fire Department is unable to fulfill its obligations under this contract to answer or attend any fire occurring in said Town of Batavia Fire Protection District for a period of twenty-one (21) days or longer, the Fire Department covenants to reimburse the Town on a pro rata basis the sums provided to be paid to the Fire Department pursuant to this Agreement retroactive to the first day of said twenty-one (21) day period for the entire period of time during which it is unable to fulfill its obligations under this Agreement.

7. A. The Town covenants and agrees to pay to the Fire Department in consideration for services to be performed pursuant to this Agreement the sum of One million, seventy-four thousand, seventy-five dollars (\$1,074,075.00).

B. The sums as stated in section A of this paragraph to be due and payable on the 1st day of March, 2020, upon presentation to the Town of a duly verified voucher therefore.

8. The Town covenants to provide snowplowing services for the parking and driveway area to the Fire Hall owned by the Fire Department, as well as routine maintenance of said parking lot and driveway area, both only to the extent that the Superintendent of Highways of the Town determines that said services can be provided. The Fire Department agrees to provide all materials and supplies for said maintenance services; acknowledges that said routine maintenance services shall be provided only during normal business hours of the Town of Batavia Highway Department and as other Town Highway Department functions permit. The Fire Department further acknowledges that said snowplowing services shall be provided only after the Town's Superintendent of Highways is satisfied that the highways of the Town of Batavia are reasonably free and clear of ice and snow and that men and machinery under his supervision and control are free to provide said services. The Fire Department hereby covenants to indemnify and to hold the Town harmless for any injury, loss or damage which the Fire Department or any other person, firm or corporation may suffer, sustain or be required to pay by reason of the Town not providing or failing to provide adequate snowplowing and/or maintenance services under the provisions of this Paragraph.

9. **On or before April 1, 2020**, the Fire Department will provide an independent, certified audit of the financial affairs of the Fire Department.

10. A. The Fire Department shall provide written notice to the Town of capital purchases as early as possible, but in no event not less than 30 days prior thereto; provided, however, that this provision shall not be construed as requiring or constituting any municipal approval or involvement in the corporate affairs of the Fire Department by the Town.

B. The Fire Department shall continue to exercise sound financial practices and planning, including maintenance of capital reserve accounts where feasible.

11. All moneys to be paid under any provision of this Agreement, as well as other payments which may be made from time to time according to applicable provisions of law which regulate the terms and provisions of this Agreement, shall be a charge upon the said Fire Protection District to be assessed and levied upon the taxable real property in said District and collected with the Town Taxes.

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12. This Agreement shall become operative and effective from 12:01 a.m. January 1, 2020, and shall continue for a term of one (1) year which will expire at midnight on December 31, 2020.

13. It is understood and agreed that this contract is subject to the provisions of Section 184 of the Town Law of the State of New York.

IN WITNESS WHEREOF, the parties have duly executed and delivered this Agreement in duplicate the day and year first above written.

TOWN BOARD OF THE TOWN OF BATAVIA

BY _____
GREGORY H. POST

(SEAL)

ATTEST:

TERESSA M. MORASCO, TOWN CLERK

TOWN OF BATAVIA FIRE DEPARTMENT, INC.

BY _____
SCOTT GARLOCK, PRESIDENT

(SEAL)

STATE OF NEW YORK)
COUNTY OF GENESEE) ss:

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On the ____ day of _____, 2019, before me came GREGORY H. POST, to me known, who, being by me duly sworn, did depose and say that he resides at 8472 Seven Springs Road in the Town of Batavia, New York; and he is the Supervisor of the **TOWN OF BATAVIA, NEW YORK** the municipal corporation described in and who executed the foregoing Agreement; that he knows the seal of said Town; that it was affixed by order of the Town Board of said Town; and that he signed his name thereto by like order.

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF GENESEE) ss:

On the ____ day of _____, 2019, before me came Scott Garlock, to me known, who, being by me duly sworn, did depose and say that, he resides at 33 Dellinger Avenue, Batavia, New York; and he is the President of the **TOWN OF BATAVIA FIRE DEPARTMENT, INC.** the corporation described in and which executed the foregoing Agreement; that he knows the seal of said Corporation; that it was affixed by order of the Board of Directors of said Corporation; and that he signed his name thereto by like order.

NOTARY PUBLIC

RESOLUTION NO. 179:

Councilwoman White offered the following:

RESOLUTION TO EXTEND THE COMPLETION TIME FOR PARK ROAD IMPROVEMENT PROJECT

WHEREAS, the Town of Batavia and the New York State Department of Transportation entered into an agreement on December 16, 2009 for the Town to provide preliminary engineering design and Right of Way acquisition services for the improvements to Park Road between NYS Route 98 and NYS route 63. As a result of the loss of construction funding for the project the design was placed on hold. The construction funding has been reinstated, therefore the design can be completed and the Town has requested a time extension to complete the preliminary design and right of way; and

WHEREAS, the original completion date for the preliminary engineering and right of way acquisition as stated in the agreement was November 17, 2018. The new completion for the preliminary engineering and right of way acquisition is July 31, 2020.

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NOW, THEREFORE, BE IT RESOLVED, the Town Board does hereby authorize the time extension for the Park Road Improvement Project preliminary engineering and right of way acquisition to the new completion date of July 31, 2020, and it is further

RESOLVED, that the Town Supervisor is hereby authorized to execute the preliminary engineering and right of way acquisition time extension document and any related documents.

Second by: Councilman Zambito

Ayes: White, Zambito, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 180:

Deputy Supervisor Underhill offered the following:

**DEDICATION OF STATE STREET ROAD SEWER FORCE MAIN FROM
FLEET MAINTENANCE INC.**

WHEREAS, Fleet Maintenance Inc. has installed 1,775 linear feet of 2” sanitary sewer force main on the west side of State Street Road from house address 8212 to 8284 State Street Road as part of their new building project which are shown on the approved construction drawings labeled Fleet Maintenance Inc. dated April, 2018 and on file with the Town Building and Zoning Department and generally described as follows:

Sewer

1,775 linear feet of 2” sanitary sewer force main and laterals within the State Street Road right of way with a total approximate value of \$ 135,000

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

WHEREAS, Fleet Maintenance Inc. has requested that the Town of Batavia accept dedication of said sewer improvements; and

WHEREAS, the Town Engineer recommends that the Town Board accepts the sewer improvements; and

NOW, THEREFORE, BE IT

RESOLVED, the Town of Batavia accepts dedication of State Street Road sanitary sewer force main improvements as shown on the approved construction drawings labeled Fleet Maintenance Inc. dated April, 2018 and generally described as follows:

Sewer

1,775 linear feet of 2” sanitary sewer force main and laterals within the State Street Road right of way located on the west side of the road between house addresses 8212 and 8284 State Street Road and with a

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total approximate value of \$ 135,000.

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

RESOLUTION NO. 181:

Supervisor Post offered the following:

**OUT OF DISTRICT SEWER AGREEMENT BETWEEN TOWN OF BATAVIA AND
FLEET MAINTENACE, INCORPORATED**

WHEREAS, the Town is the owner of a Sanitary Sewer Force Main on State Street Road, Batavia, New York, which is proposed to serve a future State Street Road Sewer District, and

WHEREAS, Fleet Maintenance, Incorporated owns property located at 8190 State Street Road, Batavia, New York, which parcel is in close proximity of the City of Batavia and within the proposed State Street Road Sewer District; and

WHEREAS, Fleet Maintenance, Incorporated requested permission to become an Out-of-District sewer customer; and

WHEREAS, in the case of Out -of-District sewer customers, a sewer agreement must be executed between the Town of Batavia and the owner of the property designated as Out-of-District; and

WHEREAS, the City of Batavia has given approval for this property to become a City Sanitary Sewer Customer until such time a Town Sewer District or Extension is formed.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the Out-of-District Sewer Agreement between the Town of Batavia and Fleet Maintenance, Incorporated, owner of property located at 8190 State Street Road, Batavia, New York, a copy of which is annexed hereto and made a part of the Town Board Minutes.

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

SEWER SERVICE AGREEMENT

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THIS AGREEMENT made the _____ day of _____, 2019, by and between the **TOWN OF BATAVIA**, a municipal corporation having its principal office located at 3833 West Main Street Road, Batavia, New York 14020, (hereinafter referred to as “Town or Party of the First Part”), and **FLEET MAINTENANCE, INCORPORATED**, 8190 State Street Road, Batavia, New York (hereinafter referred to as “Party of the Second Part”).

WHEREAS, the Party of the Second Part is the owner of property locally known as 8190 State Street Road in the Town of Batavia, County of Genesee and State of New York, which property is in close proximity to the City of Batavia and within the Town of Batavia proposed State Street Road Sewer District and

WHEREAS, said Town has a 2-inch Force Main that can service the aforesaid property owned by the Party of the Second Part; and

WHEREAS, the Party of the Second Part desires to discharge directly to the City of Batavia sewer system via the Town’s 2-inch Force Main until a Sewer District is formed; and

WHEREAS, the City of Batavia has given approval for this property to become a City Sewer Customer until such time a Town Sewer District or extension is formed.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The Town hereby grants to the Party of the Second Part the rights to connect to the Town’s Force Main and to temporarily be a City of Batavia Sewer Customer. Said connection shall be made at the sole cost and expense of the Party of the Second Part. Said line shall be connected to the Town’s Sanitary Sewer Force Main under the supervision, control, and direction of the Town of Batavia. Once said connection has been made, the Party of the Second Part shall be solely responsible for the upkeep, maintenance, and repair of said line.
2. The Party of the Second Part further covenants and agrees as follows:
 - A. To use said sanitary sewer service only for its building located at 8190 State Street Road in the Town of Batavia, New York.
 - B. Not to permit any tap-in to said sewer line installed by the Party of the Second Part for the benefit of any person, firm or corporation.
 - C. To abide by and obey all presently existing and future enacted rules, regulations and ordinances of the Town pertaining to the use of and payment for sewer service sold to residents of the Town of Batavia sewer districts as if Party of the Second Part were in a District.
 - D. To become a part of any sewer district or extension which geographically encompasses the property served by sewer and shall affirmatively sign any petition that seeks to establish such sewer district or extension; as well as refraining from any acts in opposition to such a sewer district. Upon becoming part of the new sewer district or extension, Customer will be responsible to pay all costs and expenses of the newly formed district, including its debt

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service, which may or may not result in payments greater than those paid pursuant to this Agreement

3. This Agreement shall run with the land and continue in force and effect until the happening of any of the following events at which time this Agreement shall automatically terminate:
 - A. A determination by the Town, in its sole judgment, that the continued sewer service to the Party of the Second Part will render the Town's sanitary sewer facilities insufficient to meet the needs of resident and other Town of Batavia customers of any Town of Batavia Sewer Districts.
 - B. Any breach of this Agreement by the Party of the Second Part.
 - C. The formation of a sewer district or extension geographically encompassing the property herein serviced by this sewer line.
4. This Agreement shall be binding upon and shall inure to the benefit of the respective parties, their successors and assigns.
5. The invalidity or unenforceability of any provision of this Agreement, as declared by the valid judgment of any court of competent jurisdiction to be invalid or unconstitutional, shall not affect the validity or enforceability of the remaining provisions of this Agreement, which shall remain in full force and effect.

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

{SEAL}

TOWN OF BATAVIA

BY: _____
Gregory H. Post, Supervisor

FLEET MAINTENANCE, INC.

BY: _____
Deborah Gawron, President

NOVEMBER 20, 2019
REGULAR TOWN BOARD MEETING

State of New York}
County of Genesee}ss.

On this _____ day of _____, 2019, before me, the undersigned, personally appeared Gregory H. Post, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

State of New York}
County of _____ }ss.

On this _____ day of _____, 2019, before me, the undersigned, personally appeared Deborah Gawron, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

RESOLUTION NO. 182:

Councilwoman Michalak offered the following:

**OUT OF DISTRICT SEWER AGREEMENT BETWEEN TOWN OF BATAVIA AND
JOSEPH E. BURKE**

WHEREAS, the Town is the owner of a Sanitary Sewer Force Main on State Street Road, Batavia, New York, which is proposed to serve a future State Street Road Sewer District, and

WHEREAS, Joseph E. Burke owns property located at 8193 State Street Road, Batavia, New York, which parcel is in close proximity of the City of Batavia and within the proposed State Street Road Sewer District; and

WHEREAS, Joseph E. Burke requested permission to become an Out-of-District sewer customer; and

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WHEREAS, in the case of Out -of-District sewer customers, a sewer agreement must be executed between the Town of Batavia and the owner of the property designated as Out-of-District; and

WHEREAS, the City of Batavia has given approval for this property to become a City Sanitary Sewer Customer until such time a Town Sewer District or Extension is formed.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the Out-of-District Sewer Agreement between the Town of Batavia and Joseph E. Burke, owner of property located at 8193 State Street Road, Batavia, New York, a copy of which is annexed hereto and made a part of the Town Board Minutes.

Second by: Deputy Supervisor Underhill

Ayes: Michalak, Underhill, Zambito, White, Post

APPROVED by unanimous vote (5-0)

SEWER SERVICE AGREEMENT

THIS AGREEMENT made the _____ day of _____, 2019, by and between the **TOWN OF BATAVIA**, a municipal corporation having its principal office located at 3833 West Main Street Road, Batavia, New York 14020, (hereinafter referred to as “Town or Party of the First Part”), and **JOSEPH E. BURKE**, 8193 State Street Road, Batavia, New York (hereinafter referred to as “Party of the Second Part”).

WHEREAS, the Party of the Second Part is the owner of property locally known as 8193 State Street Road in the Town of Batavia, County of Genesee and State of New York, which property is in close proximity to the City of Batavia and within the Town of Batavia proposed State Street Road Sewer District and

WHEREAS, said Town has a 2-inch Force Main that can service the aforesaid property owned by the Party of the Second Part; and

WHEREAS, the Party of the Second Part desires to discharge directly to the City of Batavia sewer system via the Town’s 2-inch Force Main until a Sewer District is formed; and

WHEREAS, the City of Batavia has given approval for this property to become a City Sewer Customer until such time a Town Sewer District or extension is formed.

NOW, THEREORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

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6. The Town hereby grants to the Party of the Second Part the rights to connect to the Town's Force Main and to temporarily be a City of Batavia Sewer Customer. Said connection shall be made at the sole cost and expense of the Party of the Second Part. Said line shall be connected to the Town's Sanitary Sewer Force Main under the supervision, control, and direction of the Town of Batavia. Once said connection has been made, the Party of the Second Part shall be solely responsible for the upkeep, maintenance, and repair of said line.
7. The Party of the Second Part further covenants and agrees as follows:
 - E. To use said sanitary sewer service only for its building located at 8190 State Street Road in the Town of Batavia, New York.
 - F. Not to permit any tap-in to said sewer line installed by the Party of the Second Part for the benefit of any person, firm or corporation.
 - G. To abide by and obey all presently existing and future enacted rules, regulations and ordinances of the Town pertaining to the use of and payment for sewer service sold to residents of the Town of Batavia sewer districts as if Party of the Second Part were in a District.
 - H. To become a part of any sewer district or extension which geographically encompasses the property served by sewer and shall affirmatively sign any petition that seeks to establish such sewer district or extension; as well as refraining from any acts in opposition to such a sewer district. Upon becoming part of the new sewer district or extension, Customer will be responsible to pay all costs and expenses of the newly formed district, including its debt service, which may or may not result in payments greater than those paid pursuant to this Agreement
8. This Agreement shall run with the land and continue in force and effect until the happening of any of the following events at which time this Agreement shall automatically terminate:
 - D. A determination by the Town, in its sole judgment, that the continued sewer service to the Party of the Second Part will render the Town's sanitary sewer facilities insufficient to meet the needs of resident and other Town of Batavia customers of any Town of Batavia Sewer Districts.
 - E. Any breach of this Agreement by the Party of the Second Part.
 - F. The formation of a sewer district or extension geographically encompassing the property herein serviced by this sewer line.
9. This Agreement shall be binding upon and shall inure to the benefit of the respective parties, their successors and assigns.
10. The invalidity or unenforceability of any provision of this Agreement, as declared by the valid judgment of any court of competent jurisdiction to be invalid or unconstitutional, shall not affect the validity or enforceability of the remaining provisions of this Agreement, which shall remain in full force and effect.

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

{SEAL}

TOWN OF BATAVIA

BY: _____
Gregory H. Post, Supervisor

JOSEPH E. BURKE

BY: _____
Joseph E. Burke, Owner

State of New York}
County of Genesee}ss.

On this _____ day of _____, 2019, before me, the undersigned, personally appeared Gregory H. Post, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

State of New York}
County of Genesee }ss.

On this _____ day of _____, 2019, before me, the undersigned, personally appeared Joseph E. Burke, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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Notary Public

Abstract No. 11-2019: Motion Deputy Supervisor Underhill, second Councilman Zambito to authorize the Supervisor to pay the following vouchers:

General	\$273,490.35
Highway	63,214.99
Sewer No. 1	112,950.70
Sewer No. 2	71451.38
Water	563,092.86
2019 Consolidated Water	2,743.00
Agir-Bus Park PS	8,263.00
Saile Drive	4,904.19
Sewer Capacity	5,439.84
Ellicott Trail	108457.23
Townline Joint Water	16,414.80
Total	\$1,230,422.34

Check numbers 22464 thru 22537, SM: 1126, Online: \$58,096.64

Ayes: Underhill, White, Michalak, Zambito, Post

MOTION CARRIED by unanimous vote (5-0)

DEPARTMENT REPORTS:

The Town Supervisor reported that all departments are busy. Building permits are up this year and water operations are growing.

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 Stafford.

COMMUNICATIONS:

The Town Clerk reported on the following:

October Town Clerk monthly report collected a total of \$13,555.02, remitted \$15,084.44, which included a correction from May NYSDEC report of \$1.38, to the Supervisor for the Local Share.

Hunters Landing, LLC- Received notice from Department of Labor that Hunter's Landing, LLC received a Explosives Magazine Certificate
Town Hall

ADJOURNMENT:

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

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

Respectfully submitted,

Teresa M. Morasco
Town Clerk