

JUNE 17, 2020
REGULAR TOWN BOARD MEETING
VIA ZOOM CONFERENCING
Meeting ID: 136 507 284
Password: 004386

7:00 P.M.

Greg Post, Town Supervisor led the pledge to the flag.

Because of the Novel Corona virus (COVID-19) Pandemic and the State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo’s Executive Order 202.1 issued March 12, 2020 suspending the Open Meeting Law, the Town of Batavia Town Board meeting was held electronically via ZOOM video conference/call conference instead of a public meeting open for the public to attend in person.

Roll Call

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

Others

Present: Town Clerk Morasco
Deputy Clerk Baubie
Building Inspector Lang
Building Inspector Gerould
Alecia Kaus, Video News Service

The Supervisor called the meeting to order at 7:03 P.M.

May 20, 2020 Regular Town Board Meeting: Motion Councilman Zambito, second Deputy Supervisor Underhill to approve the minutes as written.

Ayes: Zambito, Underhill, Michalak, White, Post

MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 104:

Councilwoman White offered the following:

GREAT LAKES BUILDING SYSTEMS
ACCESS CONTROL
SUPPORT AND SERVICES AGREEMENT

RESOLVED, by the Town Board of the Town of Batavia, New York, that a proposed “Software Maintenance Upgrade Support and Services Agreement”, by and between the Town of Batavia and Great Lakes Building Systems, a copy of which is annexed and made part of the Town Board Minutes is

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hereby approved, at a cost of \$2,575.00 and the Town Supervisor is authorized and directed to execute this Agreement on behalf of the Town of Batavia; and be it

FURTHER RESOLVED, the expenditure will be appropriated from line item A1620.402.

Second by: Councilman Zambito

Ayes: White, Zambito, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 105:

Deputy Supervisor Underhill offered the following:

TRAINING WORKSHOP

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

Hiedi Librock and Marcy Crandall- DR4480 Applicant Briefing Webinar (was) March 31, 2020 and April 2, 2020.

Sarah Sauka – LG Virtual Arts & Culture Day (was) May 27, 2020.

Hiedi Librock and Marcy Crandall- OSC Multi-year Capital Planning Webinar (was) June 3, 2020.

Hiedi Librock – OSC AUD filing Updates Webinar (was) June 10, 2020.

Michael Pullinzi- Walkability & Health Webinar (was) June 11, 2020.

Marcy Crandall- Waterline Technology Advancements Webinar (was) June 11, 2020.

Michael Pullinzi-SEQR Short EAF Webinar June 16, 2020.

Teressa Morasco, Marcy Crandall, and Hiedi Librock- OSC Internal Controls for Cash Receipts Webinar June 16, 2020.

Marcy Crandall- Advanced Metering Systems & Inventory Costs and Control Webinar.

Second by: Councilwoman White

Ayes: Underhill, White, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

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RESOLUTION NO. 106:

Supervisor Post offered the following:

**RE-APPOINTMENT TO
PROPERTY MAINTENANCE BOARD OF APPEALS**

WHEREAS, in February 2019 a Property Maintenance Board of Appeals was established by Local Law 1 of 2019, amending the Building Construction and Fire Prevention Code of the Town of Batavia; and

WHEREAS, John Della Penna was appointed as an alternate member to serve a one-year term, expiring June 30, 2020; and

WHEREAS, Ms. Della Penna requests to be re-appointed to said Board.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby re-appoints John Della Penna to serve as an alternate member on the Town of Batavia Property Maintenance Board Appeals, for a one-year term effective July 1, 2020 to June 30, 2021.

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

RESOLUTION NO. 107:

Councilwoman Michalak offered the following:

JUNKYARD LICENSES

RESOLVED, the Batavia Town Board hereby approves the annual Junkyard Licenses for Barsuk Recycling, LLC, Bushville Auto Parts and Herbert Diegelman Estate contingent upon the inspection and recommendation of the Building Inspector.

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

RESOLUTION NO. 108:

Councilman Zambito offered the following:

3104 WEST MAIN STREET ROAD

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**3232 WEST MAIN STREET ROAD
SOLAR ENERGY SYSTEM DECOMMISSIONING AGREEMENTS
BORREGO SOLAR SYSTEMS, INCORPORATED
OPERATORS
3104 BATAVIA SOLAR 1, LLC
3232 BATAVIA SOLAR 1, LLC**

WHEREAS, Borrego Solar Systems, Incorporated submitted applications to the Town of Batavia for Site Plan Approval of certain solar farm installations to be erected on the following parcels:
3104 West Main Street Road
3232 West Main Street Road; and

WHEREAS, the Town of Batavia Planning Board approved the applications on June 18, 2019, subject to the developer obtaining decommissioning bonds for such improvements in forms suitable to the Attorney for the Town, and

WHEREAS, the Attorney for the Town, in consultation with the Town Engineer, has presented separate Solar Energy System Decommissioning Agreements for each of the two (2) solar installations to be located in the Town for signature by the Town and the operator of each such installation, and

WHEREAS, the Town desires to approve the Decommissioning Agreements as presented.

NOW, THEREFORE, BE IT

RESOLVED, that the Supervisor is authorized to sign the following agreements, copies of which are annexed hereto and made a part of the Town Board Minutes:

Solar Energy System Decommissioning Agreement for 3104 West Main Street Road, Batavia, by and between the Town of Batavia and 3104 Batavia Solar 1, LLC

Solar Energy System Decommissioning Agreement for 3232 West Main Street Road, Batavia, by and between the Town of Batavia and 3232 Batavia, Solar, LLC

Second by: Councilwoman White

Ayes: Zambito, White, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 109:

Councilwoman White offered the following:

**ACCEPTANCE OF SOLAR ENERGY SYSTEM
DECOMMISSIONING BONDS
3104 WEST MAIN STREET ROAD
3232 WEST MAIN STREET ROAD**

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**BORREGO SOLAR SYSTEMS, INCORPORATED
OPERATORS
3104 BATAVIA SOLAR 1, LLC
3232 BATAVIA SOLAR 1, LLC**

WHEREAS, the Town of Batavia approved entering into a Decommissioning Agreements June 17, 2020 with Operators, 3104 Batavia Solar 1, LLC and 3232 Batavia Solar 1, LLC for solar farm installations to be erected on the following parcels:

3104 West Main Street Road
3232 West Main Street Road; and

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

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

NOW, THEREFORE, BE IT

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

Solar Energy System Decommissioning Bond for 3104 West Main Street Road, Batavia, by and between the Town of Batavia and Borrego Solar Systems, Incorporated

Solar Energy System Decommissioning Bond for 3232 West Main Road, Batavia, by and between the Town of Batavia and Borrego Solar Systems, Incorporated.

Second by: Councilwoman Michalak

Ayes: White, Michalak, Zambito, Underhill, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 110:

Deputy Supervisor Underhill offered the following:

INTERMUNICIPAL AGREEMENT FOR WATER AND SEWER

METER READING, BILLING AND COLLECTION

By and Between

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TOWN OF BATAVIA

And

VILLAGE OF ELBA

WHEREAS, Elba presently maintains a water and sewer system and desires to contract with Batavia to perform water and sewer meter reading, billing and collection for Elba's customers connected thereto, and

WHEREAS, Batavia has the trained staff and equipment to perform water and sewer meter reading, billing and collection, and

WHEREAS, Batavia and Elba are authorized to enter into an intermunicipal agreement for water and sewer meter reading and billing pursuant to Article IX, Section 1 (c) of the New York State Constitution and Article 5-G of the New York State General Municipal Law, and desire to enter into said agreement for a term of twenty years, beginning on July 1, 2020.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Town to enter into an intermunicipal agreement for water and sewer meter reading, billing, and collection with the Village of Elba, a copy of which is annexed hereto and made a part of the minutes; and be it

FURTHER RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the aforementioned agreement.

Second by: Councilwoman Michalak

Ayes: Underhill, Michalak, Zambito, White, Post

APPROVED by unanimous vote (5-0)

**INTERMUNICIPAL AGREEMENT FOR WATER AND SEWER
METER READING, BILLING AND COLLECTION**

**By and Between
TOWN OF BATAVIA
And
VILLAGE OF ELBA**

THIS AGREEMENT, made the _____ day of _____, 2020, by and among the **TOWN OF BATAVIA**, a Municipal Corporation of the State of New York, with offices located at 3833 West Main Street Road, Batavia New York 14020, (hereinafter "Batavia"); and the **VILLAGE OF ELBA**, a

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Municipal Corporation of the State of New York, with offices located at 4 South Main Street, Elba, New York 14058, (hereinafter “Elba”); (hereinafter referred to collectively as the “Parties”).

WITNESSETH:

WHEREAS, Elba presently maintains a water and sewer system and desires to contract with Batavia to perform water and sewer meter reading, billing and collection for Elba’s customers connected thereto, and

WHEREAS, Batavia has the trained staff and equipment to perform water and sewer meter reading, billing and collection, and

WHEREAS, Batavia and Elba are authorized to enter into an intermunicipal agreement for water and sewer meter reading and billing pursuant to Article IX, Section 1 (c) of the New York State Constitution and Article 5-G of the New York State General Municipal Law, and desire to set forth the terms and conditions of their agreement,

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

1. Batavia’s Responsibilities: Batavia shall provide the following services to Elba:
 - a. Electronically read all water and/or sewer meters of Elba’s customers;
 - b. Mail all water and/or sewer invoices to all of Elba’s customers at Batavia’s sole cost and expense;
 - c. Reasonably respond to Elba’s customers’ water and/or sewer questions pertaining to invoices;
 - d. Collect all water and/or sewer rents invoiced by Batavia to Elba’s customers. It is agreed that Elba customers may pay in person at the Batavia Town Hall, or by utilizing a drop box at the Elba Village Hall. The Parties agree to work in good faith to develop procedures for delivery of all payments made to the drop box to Batavia.
 - e. Notify customers when there is a high flow alarm. The Parties understand that Batavia is presently developing the capability to monitor high flows, and that notification of high flows cannot occur until all necessary tools are fully operational.
 - f. The Parties understand and agree that when an Elba customer’s water and/or sewer rent payments are late, Batavia will not automatically notify the customer of past-due balances via mail or any other form of communication, and instead will include past due amounts, together with any penalties or interest, on the customer’s next quarterly billing statement. No later than June 1st (about 30 days prior to the Elba tax warrant date) of each year of this Agreement, Batavia will send to Elba a list of water and/or sewer rents more than 30 days past due and outstanding as of May 15th of such year, so Elba may relevy any such past due charges.
 - g. Batavia will purchase at its sole cost and expense a software subscription for Williamson Law billing software to allow integration into Elba’s accounting software.

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2. Elba's Responsibilities: Elba's responsibilities during the term of this Agreement shall include the following:
 - a. Complete installation of automatic read system compatible with Batavia's existing software systems, together with the dedication of same to the Town of Batavia;
 - b. Manually read any meters that cannot be read electronically on a quarterly basis, and promptly provide readings to Batavia for billing purposes;
 - c. Respond to any and all Elba customers' billing inquiries that are not able to be reasonably addressed by Batavia;
 - d. Repair and/or replace any water meters or reading equipment that in Batavia's judgment are not working properly.
 - e. Complete any service shut-offs for nonpayment, as determined by Elba in its sole discretion.
3. Remittance Procedures. Batavia will remit water and/or sewer rent revenue to Elba at regular intervals to be determined and agreed between the Parties.
4. Use of Elba System by Batavia. In consideration for the services to be provided by Batavia to Elba, Elba agrees to dedicate at no additional cost or charge to Batavia Elba's newly installed automatic radio meter reading system for use by Batavia.
5. Term of Agreement. The term of this Agreement shall be twenty (20) years July 1, 2020 to June 30, 2040, unless either party provides written notice to the other of not less than one year of its intent to terminate this Agreement. In the event of receipt of such notice by either municipality, this Agreement shall terminate on the date recited in such notice.
6. Entire Agreement. There are no other Agreements or understandings, either oral or written, by and among the Parties effecting this Agreement. No changes, addition or deletions of any portions of this Agreement shall be valid or binding upon the Parties hereto, unless the same is approved in writing by the Parties.
7. No Assignment. This Agreement may not be assigned by any party, in whole or in part, without the prior written consent of both Parties.
8. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of both of the Parties hereto and their respective successors and permitted assigns.
9. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all which shall constitute the same instrument herein.

IN WITNESS WHEREOF the Parties have last signed this Agreement the day and year first

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written above.

TOWN OF BATAVIA

Gregory H. Post, Supervisor

State of New York }
County of Genesee } ss.

On this _____ day of _____, 2020, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

VILLAGE OF ELBA

Norman Itjen, Mayor

State of New York}
County of Genesee} ss.

On this _____ day of _____, 2020, before me, the undersigned, personally appeared Norman Itjen, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

RESOLUTION NO. 111:

Supervisor Post offered the following:

COVID-19 CRISIS
CARES ACT- RELIEF FUND

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RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to send the attached letter to Governor Cuomo urging relieve funds received from the Coronavirus Aid, Relief, and Economic Security (CARES) Act be released to local governments.

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

The Supervisor explained that the CARES Act was 5.1 billion dollars NYS received 60 days ago from the Federal Government that was suppose to be distributed to the local governments.

RESOLUTION NO. 112:

Councilwoman Michalak offered the following:

RESOLUTION IN SUPPORT OF LEGISLATION
ASSEMBLY BILL 10492 AND SENATE BILL 8417
RELATING TO COVID-19
AMENDING FINANCE LAW

WHEREAS, due to the COVID-19 pandemic, extraordinary expenses relating to it, and the anticipated shortfall of finances, Assembly Bill 10492 and Senate Bill 8417, offers an amend to the local finance law; and

WHEREAS, this legislation would give towns more options to address financial shortfalls at no cost to the state:

1. Allow BANS to rollover for seven years instead of 5 years
2. Allows towns to spend money from capital reserve funds for capital costs related to COVID-19 without being subject to a permissive referendum
3. Allows towns to temporarily borrow money from reserve funds for COVID-19 related expenses so long as at least 20% of what's borrowed is returned each fiscal year.
4. Gives town another year to pay back interfund advances.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby supports legislation relating to COVID-19 amending the local finance law and hereby directs the Town Clerk to send a copy of said resolution to the Town's local state representatives.

Second by: Councilman Zambito

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

Abstract No. 6-2020: Motion Councilwoman Michalak, second Councilman Zambito to authorize the Supervisor to pay the following vouchers:

General	\$61,074.56
Highway	58,305.47
Sewer No. 1	14,548.37
Sewer No. 2	24,796.28
Water	63,614.37
Bigelow Creek	7,100.63
Ellicott Trail	528.40
Agri-Bus PS	37,848.86
Park Road	380.00
Total	\$268,196.94

Check numbers 22989 – 23003, 23005 – 23057, 23059 ACH: \$77,211.49

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

DEPARTMENT REPORTS:

The Supervisor reported on the following departments:

Highway- Engaged in completing Ellicott Trail, paving operations at 7 locations, and have been filling potholes.

Water/Wastewater- Working on repairs and update maintenance. Working with the Village of Elba to enter into an agreement for water/wastewater billing.

Building Inspector Dan Lang reported on the following:

- Intermunicipal Agreements are working out well.
- With Phase Openings, been working with retail stores and churches
- There are a couple of new solar projects in the works
- Permits have been steady, there has been no slowdown

Bruce Gerould concurred. With the travel restrictions there have been a great number of pool, deck, and small addition permits.

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. via ZOOM

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Special Town Board Meeting- June 30, 2020 Via ZOOM time and agenda to be announced.

COMMUNICATIONS:

The Town Clerk reported on the following:

May Town Clerk monthly report collected a total of \$3,443.00, remitted \$3,260.94 to the Supervisor for the Local Share.

Trainings- Received notice from NYMIR. They have added many courses to their website to help manage the impact of COVID-19. Town Officials have been advised.

COMMITTEE REPORTS:

Ellicott Trail- Councilman Zambito reported they are working on scheduling the Ellicott Trail ribbon cutting. Possibly at the end of this month.

The Supervisor reported that he received an email regarding Ellicott Trail that the trail is great, but they are concerned about the litter and no trash cans.

ADJOURNMENT:

Motion Councilman Zambito, second Deputy Supervisor Underhill to adjourn the Regular Town Board Meeting at 7:29 P.M.

Ayes: Zambito, Underhill, Michalak, White, Post

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teresa M. Morasco
Town Clerk