

**JUNE 20, 2018  
REGULAR TOWN BOARD MEETING**

**Town Hall**

**7:00 P.M.**

Dan Underhill, Deputy Supervisor led the pledge to the flag.

**Roll Call**

**Present:**

Deputy Supervisor Underhill  
Councilwoman White  
Councilwoman Michalak  
Councilman Zambito

**Absent:** Supervisor Post

**Others**

**Present:** Town Clerk Morasco

The Supervisor called the meeting to order at 7:07 P.M.

**May 16, 2018 Regular Town Board Meeting:** Motion Councilwoman Michalak, second Councilman Zambito to approve the minutes as written.

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

**MOTION CARRIED by unanimous vote (4-0)**

**RESOLUTION NO. 133:**

Councilwoman White offered the following:

**FINAL ORDER ESTABLISHING  
OAKWOOD HILLS DRAINAGE DISTRICT**

**WHEREAS**, the Batavia Town Board (herein called “Town Board” and “Town”, respectively), in the County of Genesee, New York, commenced a procedure to establish Oakwood Hills Drainage District (the “District”), pursuant to Article 12-A of the Town Law, by arranging for the preparation of a certain map, plan and report dated August 2017, and

**WHEREAS**, such map, plan and report was prepared by the Town of Batavia Engineering Department, competent engineers duly licensed by the State of New York, for the establishment of the District; and

**WHEREAS**, such map, plan and report is on file at the office of the Town Clerk, and available for public inspection at said location; and

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**WHEREAS**, such map, plan and report shows all outlets and the terminus and course of each proposed main sewer or drain, together with the location and a general description of all sewage disposal plants, pumping stations and other public works, and is consistent with existing drainage plans maintained by the Town, and

**WHEREAS**, the project will provide post-construction maintenance of the storm water system and storm water treatment areas to the residences in the District; and

**WHEREAS**, the overall project will consist of the post- construction maintenance of the storm water system and storm water treatment areas includes the following:

- a. Cleaning gutters, catch basins and storm water pipes.
- b. Mowing and maintaining grass and vegetation within the storm water treatment areas.
- c. Removing sediment from storm water treatment areas when the infiltration rates no longer function as designed or the sediment level reaches the following elevations.
  1. SWMA #1 (detention Basin)  
Bio retention- Pre- Treat Area  
Infiltration rate: 0 inches/ hour (6" max. wet pond depth)  
Bottom Elev: 868.5  
Max. allowable sediment elev: 868.5 (no sediment)  
Primary Treatment Area  
Infiltration rate: 0 inches/ hour  
Bottom Elev: 865.0  
Max. allowable sediment elev: 865.0 (no sediment)
  2. SWMA #2 (infiltration basin)  
Infiltration rate: 5 inches/ hour  
bottom elev. : 880.0  
Max. water surface elev: 881.12  
Max. allowable sediment elev: 880.6 (50% of capacity)
  3. SWMA #3 (infiltration basin)  
Infiltration rate: 5 inches/ hour  
bottom elev. : 877.0  
Max. water surface elev: 882.16  
Max. allowable sediment elev: 879.6 (50% of capacity)
  4. SWMA #4 (infiltration basin)  
Infiltration rate: 12 inches/ hour  
bottom elev. : 889.0  
Max. water surface elev: 889.5  
Max. allowable sediment elev: 889.25 (50% of capacity)
  5. SWMA #5 (infiltration basin)  
Infiltration rate: 5.7inches/ hour

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- bottom elev. : 883.0
- Max. water surface elev: 885.2
- Max. allowable sediment elev: 884.1 (50% of capacity)
- 6. SWMA #6 (infiltration trench)
  - Infiltration rate: 9 inches/ hour
  - bottom elev. : 880.0
  - Max. water surface elev: 881.12
  - Max. allowable sediment elev: 880.6 (50% of capacity)
- 7. SWMA #7 (infiltration basin)
  - Infiltration rate: 10 inches/ hour
  - bottom elev. : 872.0
  - Max. water surface elev: 875.2
  - Max. allowable sediment elev: 873.6 (50% of capacity)

**WHEREAS**, primary responsibility for maintenance of District improvements will be borne by a third-party homeowner's association, and the District will incur cost only to the extent the homeowner's association fails to maintain the improvements, which is estimated to be \$25,000 per year; and

**WHEREAS**, pursuant to the Order duly adopted on March 21, 2018, the Town Board determined to proceed with the establishment of the proposed District and adopted an Order reciting a description of the boundaries of the District, the improvements proposed, the maximum amount proposed to be expended for the post-construction maintenance of the storm water system and storm water treatment areas in connection with the establishment of the District, the proposed method of financing to be employed, the fact that a map, plan and report describing the same is on file in the Town Clerk's office and is available for public inspection and specifying April 18, 2018, at 7:15 o'clock p.m. (Prevailing Time) as the time when, and the Batavia Town Hall, located at 3833 West Main Street Road, in the Town, as the place where the Town Board would meet to consider the proposed establishment of the District and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by law; and

**WHEREAS**, following publication and posting of certified copies of said Order pursuant to Article 12-A of the Town Law and after a public hearing duly held by the Town Board at the time and place herein referred to, the Town Board, by resolution duly adopted April 18, 2018, determined that the notice of public hearing was published and posted as required by law and was otherwise sufficient, that all the property and property owners included within the proposed District were benefited thereby, that all the property and property owners benefited were included within the limits of the proposed District, that it was in the public interest to establish the District and approved the establishment of the District and the post-construction maintenance of storm water system and storm water treatment areas in connection with the District as hereinabove described at an estimated maximum annual cost of \$25,000; that no

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financing is required to support the District; and unless paid from other sources or charges, the costs for the establishment of the District will be by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine to be especially benefited by said District, so much upon and from each as shall be in just proportion to the amount of benefit which the District shall confer upon the same; and

**WHEREAS**, permission of the State Comptroller was not required with respect to the establishment of the District,

**NOW, THEREFORE, be it**

**ORDERED**, that the establishment of the District is hereby approved, to be known as Oakwood Hills Drainage District, situate wholly outside of any incorporated village or city, and is bounded and described as follows:

All that tract or parcel of land situated in the Town of Batavia, County of Genesee, State of New York, being described as follows:

Beginning at a point which is the southwesterly corner of Tax Parcel number 13.02-1-91; thence,

1. Easterly, along the northerly line of Tax Parcel number 13.-1-107.22, a distance of 3,181 feet, more or less, to the southeasterly corner of Tax Parcel number 13.02-1-96; thence,
2. Northerly, along the easterly line of Tax Parcel number 13.02-1-96, a distance of 450 feet, more or less, to the northwesterly corner of Tax Parcel number 13.-1-4.2; thence,
3. Easterly, along the northerly line of Tax Parcel number 13.-1-4.2 and across Seven Spring Road (49.5 feet wide right-of-way), a distance of 233 feet, more or less, to the intersection of the easterly extension of the northerly line of Tax Parcel number 13.-1-4.2 and the centerline of Seven Springs Road; thence,
4. Northerly, along the centerline of Seven Spring Road, a distance of 343 feet, more or less, to the intersection of the centerline of Seven Springs Road and the easterly extension of the southerly line of Tax Parcel number 13.02-1-28; thence,
5. Westerly, across Seven Springs Road (49.5 feet wide right-of-way) and along the southerly line of Tax Parcel number 13.02-1-28, a distance of 225 feet, more or less, to the southwesterly corner of Tax Parcel number 13.02-1-28; thence,
6. Northerly, along the westerly line of Tax Parcel number 13.02-1-28, a distance of 152 feet, more or less, to the northwesterly corner of Tax Parcel number 13.02-1-28; thence,
7. Westerly, along the southerly line of Tax Parcel number 13.-1-4.121, a distance of 72 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-4.121; thence,
8. Northerly, along the westerly line of Tax Parcel numbers 13.-1-4.121 and 13.-1-4.111, a distance of 350 feet, more or less, to the northwesterly corner of Tax Parcel number 13.-1-4.111; thence,

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9. Easterly, along a the northerly line of Tax Parcel number 13.-1-4.111, a distance of 56 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-151; thence,
10. Northerly, along the westerly line of Tax Parcel numbers 13.-1-151, 13.-1-150, and 13.-1-149.1, a distance of 555 feet, more or less, the northwesterly corner of Tax Parcel number 13.-1-149.1; thence,
11. Easterly, along the northerly line of Tax Parcel number 13.-1-149.1 and across Seven Springs Road (49.5 feet wide right-of-way), a distance of 223 feet, more or less, to the intersection of the easterly extension of the northerly line of Tax Parcel number 13.-1-149.1 and the centerline of Seven Springs Road; thence,
12. Northerly, along the centerline of Seven Spring Road, a distance of 100 feet, more or less, to the intersection of the centerline of Seven Springs Road and the easterly extension of the southerly line of Tax Parcel number 13.-1-9; thence,
13. Westerly, across Seven Springs Road (49.5 feet wide right-of-way) and along the southerly line of Tax Parcel number 13.-1-9, a distance of 219 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-9; thence,
14. Northerly, along the easterly line of Tax Parcel number 13.02-1-27, a distance of 151 feet, more or less, to the northeasterly corner of Tax Parcel number 13.02-1-27; thence,
15. Westerly, along the northerly line of Tax Parcel numbers 13.02-1-27, 13.02-1-26, and 13.02-1-92, a distance of 942 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-8.121; thence,
16. Northerly, along an westerly line of Tax Parcel number 13.-1-8.121, a distance of 893 feet, more or less, to the northerly corner of the Tax Parcel number 13.02-1-92; thence,
17. Southwesterly, along the easterly line of Tax Parcel number 13.-1-108, a distance of 3,260 feet, more or less, to the point of beginning.

All as shown on a map prepared by the Town of Batavia entitled, "Oakwood Hills Storm Sewer District Map – Oakwood Hills Subdivision," dated 3/2018. The Town of Batavia, Oakwood Hills Storm Sewer District, as described above, contains approximately 105.4 acres of land.

**and be it further:**

**ORDERED**, that the District hereinabove referred to shall be operated as set forth in the Order Calling the Public Hearing dated March 21, 2018, and the resolution adopted April 18, 2018, at an estimated maximum annual cost of \$25,000 per year, which costs, together with the costs of the establishment of the District, shall be paid by the assessment, levy and collection of the special assessments from the several lots and parcels of land within the District, which the Town Board shall determine to be especially benefited by the District, so much upon and from each as shall be in just proportion to the amount of benefit which the District shall confer upon the same; and be it further

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**ORDERED**, that within ten (10) days after adoption of this Order, the Town Clerk shall record with the Clerk of the County of Genesee and file with the Department of Audit and Control in Albany, New York copies of this Order, certified by the Town Clerk

**Dated: June 20, 2018**

**TOWN BOARD OF THE  
TOWN OF BATAVIA**

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

**RESOLUTION NO. 134:**

Deputy Supervisor Underhill offered the following:

**TRAINING WORKSHOP**

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

Rhonda Saulsbury and Vickie Klein-Western New York Chapter of the International Association of Assessing Officers Examining RPTL 420-a Non-Profit Exemptions June 22, 2018 at the Quality Inn in Batavia at a cost of \$75.00 each.

Teresa Morasco- Basic Office Safety Training July 17, 2018 at the Genesee County DSS, 5130 East Main Street Road. There is not cost for this training.

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

**RESOLUTION NO. 135:**

Councilwoman Michalak offered the following:

**AUTHORIZATION TO EXECUTE THE  
NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY  
CLEAN ENERGY COMMUNITIES (CEC) PROGRAM GRANT AGREEMENT  
AGREEMENT #120375  
WATER & ENERGY CONSERVATION ADVANCED METERING PROJECT**

"RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the Clean Energy Communities (CEC) Program Grant Agreement between the Town of Batavia and the New York Energy Research and Development Authority (NYSERDA), a copy of which shall be annexed hereto and made part of the Town Board Minutes. This agreement is in regards to the \$100,000.00 grant received for the "Water & Energy Conservation Advanced Metering Project"

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

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**RESOLUTION NO. 136:**

Councilman Zambito offered the following:

**DEDICATION OF CALL PARKWAY WATERMAIN**

**WHEREAS**, the developer for the Mercy Flight project on Call Parkway has installed a new water main which is necessary for water service to the new building; and

**WHEREAS**, the contractor has constructed the water main as shown on the drawings labeled Manning Squires- Mercy Flight dated May, 2017 and generally described as follows:

450 LF of 8" PVC water main beginning at NYS Route 98 and extending east within the road right of way on Call Parkway.

Total approximate value of water improvements    \$ 35,000

**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**, Mercy Flight has requested the Town of Batavia to accept dedication of said water main; and

**WHEREAS**, the Town Engineer recommends that the Town Board accepts the water main; and

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Town of Batavia accepts dedication of 450 LF of 8" PVC water main beginning at NYS Route 98 and extending easterly along Call Parkway.

**Second by:** Councilwoman Michalak

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

**APPROVED by unanimous vote (4-0)**

**RESOLUTION NO. 137:**

Councilwoman White offered the following:

**RESOLUTION TO APPROVE DRAINAGE EASEMENTS**

**FOR THE STRINGHAM DRIVE CULVERT REPLACEMENT**

**WHEREAS**, the Town of Batavia Highway Department needs to replace a culvert under Stringham Drive, and

**WHEREAS**, the Town of Batavia Highway Department needs four easements in order to install

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the new culvert under the road and provide a drainage ditch, and

**WHEREAS**, the Town of Batavia needs these easements in order to hereinafter operate and maintain the new culvert pipe and ditches, and

**WHEREAS**, the required owners of real property have or will sign the Drainage Easements granted to the Town of Batavia.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, that certain Drainage Easements granted by the owners of real property, as hereinafter set forth, running to the Town of Batavia are hereby approved and accepted with regard to the parcels of lands set forth in the Easements, copies of which are annexed hereto and made a part of the minutes, and the Supervisor is hereby authorized to execute on behalf of the Town of Batavia any documents necessary to record the following Easements:

1. From Country Meadows NY LLC, regarding Tax Map No. 9-1-33.11
2. From Eric V. Biscaro, regarding Tax Map No. 9-1-197
3. From Roger and Mary Lou Bickle, regarding Tax Map No. 9-1-158
4. From Grace P. Cook, regarding Tax Map No. 9-1-156
- 5.

**Second by:** Deputy Supervisor Underhill

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

**APPROVED by unanimous vote (4-0)**

**RESOLUTION NO. 138:**

Deputy Supervisor Underhill offered the following:

**AUTHORIZATION TO DEVELOP VACANT BUILDING REGISTRY**

**"RESOLVED**, the Batavia Town Board hereby authorizes the Building Inspector/Code Enforcement Officer and the Attorney for the Town to Develop a Vacant Building Local Law to address issues in the Town.

**Second by:** Councilwoman White

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

**APPROVED by unanimous vote (4-0)**

**RESOLUTION NO. 139:**

Councilwoman Michalak offered the following:

**AUTHORIZATION TO CONDUCT A DOG ENUMERATION**

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**"RESOLVED**, the Batavia Town Board hereby authorizes the Town Clerk's Office to conduct a Dog Enumeration.

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

**RESOLUTION NO. 140:**

Councilman Zambito offered the following:

**AUTHORIZATION TO  
ENTER INTO LICENSE AGREEMENT WITH  
NIAGARA MOHAWK POWER CORPORATION  
FOR ELLICOTT TRAIL PROJECT**

**WHEREAS**, the Town of Batavia is seeking to enter into a License Agreement with Niagara Mohawk Power Corporation for the purpose of constructing the Ellicott Trail Project, and

**WHEREAS**, the License Agreement will allow the construction and future maintenance of the Ellicott Trail on lands owned by Niagara Mohawk Power Corporation, and

**WHEREAS**, the Attorney for the Town and the Assistant Town Engineer have reviewed the License Agreement and recommend the Town Board approve said agreement.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby approves the License Agreement to allow the construction and future maintenance of the Ellicott Trail project on lands owned by Niagara Mohawk Power Corporation, a copy of which is annexed hereto and made a part of the minutes, and be it further

**RESOLVED**, that the Town Supervisor is hereby authorized and directed to sign all documents necessary to secure the License Agreement for the Ellicott Trail Project.

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

**RESOLUTION NO. 141:**

Councilwoman White offered the following:

**MAINTENANCE AGREEMENT  
KIP 860  
MULTI-FUNCTION WIDE FORMAT COLOR COPIER/ PRINTER/SCANNER**

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**RESOLVED**, the Batavia Town Board hereby authorizes an annual maintenance agreement for the KIP 860 Multi-Function Color Copier, Printer, and Scanner at a minimum cost of \$375.00/quarter plus \$.01700 for black copies per square foot and \$.02900 for color copies per square foot between the Toshiba Business Solutions and the Town of Batavia, a copy of which is annexed hereto and made part of the Town Board Minutes ; and be it

**FURTHER RESOLVED**, said agreement is effective for thirty-six months and the expense will be appropriated from line item A1680.401.

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

**RESOLUTION NO. 142:**

Deputy Supervisor Underhill offered the following:

**SURPLUS EQUIPMENT**

**WHEREAS**, the Town of Batavia has determined that the KIP 3100 Wide Format Printer/Scanner is no longer needed for Town use and it should be sold at auction and deleted from inventory.

**NOW THEREFORE BE IT,**

**RESOLVED**, the Batavia Town Board hereby authorizes the Highway Superintendent to surplus the KIP 3100 Wide Format Printer/Scanner and sell it on the online auction.

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

**RESOLUTION NO. 143:**

Councilwoman Michalak offered the following:

**APPOINTMENT TO PLANNING BOARD-ALTERNATE MEMBER**

**WHEREAS**, Town of Batavia Law allows for two alternate members on the Planning Board;  
and

**WHEREAS**, the Town solicited for applicants to fill the position and received three applications.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby appoints Steven Tanner to the Town of Batavia

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Planning Board as an alternate member, effective immediately and expiring December 31, 2019, and be it further

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

**FURTHER RESOLVED**, the expense will be expended from line item A8020.102; and be it

**FURTHER RESOLVED**, said member appointed is subject to completing the required training within each calendar year; and be it further

**FURTHER RESOLVED**, if the training is incomplete, the Town Board will consider the position vacant and re-advertise to fill the vacancy.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (4-0)**

**RESOLUTION NO. 144:**

Councilman Zambito offered the following:

**APPOINTMENT TO ZONING BOARD APPEALS-ALTERNATE MEMBER**

**WHEREAS**, Town of Batavia Law allows for two alternate members on the Zoning Board of Appeals; and

**WHEREAS**, the Town solicited for applicants to fill the position and received two applications.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby appoints Jennifer Zambito to the Town of Batavia Zoning Board Appeals as an alternate member, effective immediately and expiring December 31, 2019, and be it further

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

**FURTHER RESOLVED**, the expense will be expended from line item A8010.102; and be it

**FURTHER RESOLVED**, said member appointed is subject to completing the required training within each calendar year; and be it further

**FURTHER RESOLVED**, if the training is incomplete, the Town Board will consider the position vacant and re-advertise to fill the vacancy.

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**Second by:** Councilwoman White  
**Ayes:** Michalak, White, Underhill  
**Abstain:** Zambito  
**APPROVED (3-eyes, 1-abstain vote)**

**RESOLUTION NO. 145:**

Councilwoman White offered the following:

**APPOINTMENT TO ZONING BOARD APPEALS-ALTERNATE MEMBER  
TO FILL UNEXPIRED TERM**

**WHEREAS,** Donna Morrill, 8640 Seven Springs Road, Batavia, New York, term on the Zoning Board of Appeals as an alternate member expires on December 31, 2018; and

**WHEREAS,** Ms. Morrill was appointed in February 2018 to the Zoning Board of Appeals as a regular member, therefore creating a vacancy; and

**WHEREAS,** the Town solicited for applicants and received two applications.

**NOW, THEREFORE, BE IT**

**RESOLVED,** the Batavia Town Board hereby appoints Keith Boeheim to the Town of Batavia Zoning Board Appeals as an alternate member, effective immediately and expiring December 31, 2018, and be it further

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

**FURTHER RESOLVED,** the expense will be expended from line item A A8010.102; and be it

**FURTHER RESOLVED,** said member appointed is subject to completing the required training within each calendar year; and be it further

**FURTHER RESOLVED,** if the training is incomplete, the Town Board will consider the position vacant and re-advertise to fill the vacancy.

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

**RESOLUTION NO. 146:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW No. 4 of 2018**

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**AND TO SCHEDULE A PUBLIC HEARING**

**WHEREAS**, the Town Board of the Town of Batavia, New York desires to consider adopting legislation to amend the “Zoning Map of the Town of Batavia, New York.”, which was established in Section 235-7 of the Code of the Town of Batavia, adopted on August 15, 2001 by Local Law No. 4 of 2001, as amended through September 20, 2017.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York that proposed Local Law No. 4 of 2018 entitled "A Local Law to Amend the Zoning Map of the Town of Batavia, New York”, which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, be and the same hereby is introduced for adoption; and

**BE IT FURTHER RESOLVED** that said proposed Local Law be laid upon the desks of the members of this Town Board on this date and remain there and a copy thereof be kept on file in the office of the Town Clerk until July 18, 2018, and that a public hearing be held on the 18<sup>th</sup> day of July, 2018, at 7:00 p.m. at the Batavia Town Hall, 3833 West Main Street Road, Batavia, New York, on the advisability of enacting said proposed Local Law; and

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

**BE IT FURTHER RESOLVED** that the Town Clerk shall cause notice of said public hearing to be published once in The Daily News at least ten (10) days prior to the date of said public hearing, pursuant to New York State Law Section 264 (1), which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk's Office; and

**BE IT FURTHER RESOLVED** that this matter shall be referred to the Genesee County Planning Board and the Town of Batavia Planning Board for consideration; and

**BE IT FURTHER RESOLVED** that at least ten (10) days prior to the public hearing, written notice of any proposed regulations, restrictions or boundaries of districts within the Town and amendments thereto be served personally or given by mail by the Town to each person or persons required to be notified pursuant to New York State Town Law Section 264 (2).

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

**RESOLUTION NO. 147:**

Councilwoman Michalak offered the following:

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**TOWN OF BATAVIA  
SEQR - LEAD AGENCY RESOLUTION**

**WHEREAS**, the Town Board has introduced Local Law No. 4 of 2018, which proposes to make changes to the Zoning Map of the Town of Batavia to change the classification of the following parcels of land from Industrial to commercial:

The entirety of: Tax Map No. 8.-1-42 and Part of: Tax Map No. 4.-1-26.111

**WHEREAS**, the Town Board is the only agency that will be either approving, funding or directly undertaking an action.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, that it shall be declared the Lead Agency with regard to an environmental review pursuant to the State Environmental Quality Review Act, and it shall prepare a Long Environmental Assessment Form for this Type I action, and

**BE IT FURTHER RESOLVED** that the Town Board shall take all other steps necessary to complete the environmental review assessment.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (4-0)**

**RESOLUTION NO. 148:**

Councilman Zambito offered the following:

**TOWN OF BATAVIA  
BATAVIA BETHANY TOWNLINE ROAD WATER DISTRICT**

**LATERAL RESTRICTIONS RESOLUTION**

**WHEREAS**, the Town Board of the Town of Batavia has created the Batavia Bethany Townline Road Water District pursuant to Town Law for the express purpose of providing public water supply to residents along Batavia Bethany Townline Road between Shepard and Bethany Center Roads; and

**WHEREAS**, part of the land area within the Batavia Bethany Townline Road Water District is also within Genesee County Agricultural District No. 1; and

**WHEREAS**, the Town Board intends to file a Notice of Intent to Undertake an Action Within an Agricultural District to evaluate the impact of providing a source of public water supply within this area on lands within Agricultural District No. 1; and

**WHEREAS**, the New York State Department of Agriculture and Markets (“Department”) asks

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that municipalities adopt lateral restrictions which restrict hookups for non-farm structures to new and existing water lines that extend through an Agricultural District in order to fulfill the statutory duty to minimize or avoid adverse impacts within an agricultural district,

**NOW THEREFORE BE IT RESOLVED**, that the Town Board, in recognition of the statutory duty to minimize or avoid adverse impacts within an agricultural district, hereby resolves to adopt the “Lateral Restriction – Conditions of Future Service” specified by the New York State Department of Agriculture and Markets as follows:

**Lateral Restriction - Conditions on Future Service**

The Town of Batavia imposes the following conditions, on the management of water/sewer lines located along Batavia Bethany Townline Road between Shepard and Bethany Center Roads included in the Batavia Bethany Townline Road Water District within an agricultural district, map of which is attached to this resolution showing the boundaries of the agricultural district in relation to the parcels indicated:

- (1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within an agricultural district will be existing structures at the time of construction, future agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the date of filing of the Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law §1115 that defines a “subdivision,” in part, as “any tract of land which is divided into five or more parcels.” Water and/or sewer service will not be provided to more than a total of four residences, buildings and/or structures on any tract of land which has been divided into parcels after the date of filing of the Notice of Intent by the municipality, where no local approval is required and the land is located within a county adopted, State certified agricultural district.

- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident’s property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.
- (3) If it can be demonstrated to the Department’s satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the

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Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.

- (4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.
- (5) Hydrants and valve boxes must not be placed directly in agricultural fields.

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

**RESOLUTION NO. 149:**

Councilwoman White offered the following:

**NOTICE OF PUBLIC HEARING SIGNS**

**RESOLVED**, the Batavia Town Board hereby authorizes the Genesee County Highway Department to make “Notice of Public Hearing Signs” for the use by the Town Board, Planning Board, and Zoning Board of Appeals for placement in the areas affected by such hearing.

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

**RESOLUTION NO. 150 :**

Deputy Supervisor Underhill offered the following:

**RESOLUTION TO AUTHORIZE PURCHASE OF  
LAPTOP COMPUTER  
WATER/WASTEWATER DEPARTMENT**

**WHEREAS**, the Water/Wastewater Maintenance laptop is not due for replacement until 2019;  
and

**WHEREAS**, a new laptop is needed now, as it is not operating properly.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes the purchase of one (1) Dell Latitude 14 Rugged 5414 Laptop computer at a cost of \$1,750.27, for the Water/Wastewater Department, New York State Contract #56AHC, copy of the quote is annexed hereto and made a part of the minutes; and

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be it further

**RESOLVED**, the expenditure will be appropriated from SW8310.200 (60%), SS18110.200 (20%), and SS28110.200 (20%)

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

**RESOLUTION NO. 151:**

Councilwoman Michalak offered the following:

**PROFESSIONAL SERVICES AGREEMENT  
WITH CC ENVIRONMENT AND PLANNING  
BIGELOW CREEK ENGINEERING REPORT AND GRANT PROPOSAL**

**WHEREAS**, Professional Services are needed for the development of an Engineering Report to manage stormwater and surface water flow and for funding opportunities; and

**WHEREAS**, CC Environment and Planning has submitted a proposal (attached) in the amount of five thousand, four hundred dollars (\$5,400.00) to perform the following tasks:

1. Assist with development of an Engineering Report that describes the proposed action to manage stormwater and surface water flow associated with Bigelow Creek to benefit water quality and drainage for Genesee Community College, the MedTech Center, Stringham Drive, and future economic and community development projects.
2. Develop a funding proposal and submit under the 2018 CFA process. A draft of the proposal will be reviewed with the Town prior to submittal

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, hereby authorizes the Supervisor to execute the Professional Services proposal between the Town of Batavia and CC Environment and Planning at a cost of five thousand, four hundred dollars (\$5,400.00) for the aforementioned tasks, a copy of which is annexed hereto and made a part of the minutes; and be it.

**FURTHER RESOLVED** that the expenditure will be appropriated from line item A8540.401.

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

**RESOLUTION NO. 152:**

Councilman Zambito offered the following:

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**PROCUREMENT POLICY  
REVIEWED AND AMENDED**

**WHEREAS**, the Town of Batavia established its Procurement Policy in February 1992, with amendments through January 2013; and

**WHEREAS**, the Batavia Town Board has reviewed the Procurement Policy and amends it to reflect Federal requirements.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board of the Town of Batavia hereby amends its procurement policy as followings by adding:

“The intention of this policy is to comply fully with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, codified in CFR Part 200 at 200.317 through 200.326 (the “Federal Regulations”), which are incorporated by reference into this policy and made a part hereof. Where there is inconsistency between this policy and the Federal Regulations, the Federal Regulations shall control.”

and be it

**FURTHER RESOLVED**, the amendment will be added to the procurement policy as “Guideline 9” and the existing Guideline 9 becomes 10.

**Second by:** Councilwoman White

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

**APPROVED by unanimous vote (4-0)**

**TOWN OF BATAVIA  
PROCUREMENT POLICY**

**GUIDELINE 1.** Every prospective purchase of goods or services shall be evaluated to determine the applicability of GML, 103.

**GUIDELINE 2.** All purchases of

a) supplies or equipment which will exceed \$10,000 in the fiscal year or

b) public works contract over \$20,000 shall be formally bid pursuant to GML, 103.

**GUIDELINE 3.** All estimated purchases of:

Less than \$10,000 but greater than \$3,000 require a written request for proposal (RFP) and written/fax quotes from 3 vendors.

Less than \$3,000 but greater than \$1,000 require an oral request for the goods and oral/fax quotes from 2 vendors

Less than \$1,000 but greater than \$250.00 are left to discretion of the Purchaser.

All estimated public works contract of:

Less than \$20,000 but greater than \$10,000 require a written RFP and fax/proposals from 3 contractors.

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Less than \$10,000 but greater than \$3,000 require a written RFP and fax/proposals from 2 contractors.

Less than \$3,000 but greater than \$500.00 are left to discretion of the Purchaser.

Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The Purchaser shall compile a list of all vendors from whom written/fax/oral quotes have been requested and the written/fax/oral quotes offered.

All information gathered in complying with the procedures of this "Guideline" shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.

**GUIDELINE 4.** The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the Purchaser prepares a written justification providing reasons why it is in the best interest of the Town and its taxpayers to make an award to other than the low bidder. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

**GUIDELINE 5.** A good faith effort shall be made to obtain the required number of proposals or quotations. If the Purchaser is unable to obtain the required number of proposals or quotations, the Purchaser shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.

**GUIDELINE 6.** Except when directed by the Town Board, no solicitation of written proposals or quotations shall be required under the following circumstances:

- a) Acquisition of professional services;
- b) Emergencies;
- c) Sole source situations;
- d) Goods purchased from agencies for the blind or severely handicapped;
- e) Good purchased from correctional facilities;
- f) Goods purchased from another governmental agency;
- g) Goods purchased at auction;
- h) Goods purchased for less than \$250.00
- i) Public Works contracts for less than \$500.00

**GUIDELINE 7.** The Town requires that consideration in the solicitation of bids or quotes for services, supplies or contracts be given to:

- small and/or locally owned businesses, with priority to businesses owned by or which employ low or moderate income persons, as defined by HUD, and
- qualified Minority and Women-owned Business Enterprises (M/WBE) firms listed in the directory of certified minority and women-owned businesses maintained by the Empire State Development Corporation on its website at [www.nylovesmwbe.ny.gov](http://www.nylovesmwbe.ny.gov) or at [http://www.empire.state.ny.us/Small\\_and\\_Growing\\_Businesses/mwbe.asp](http://www.empire.state.ny.us/Small_and_Growing_Businesses/mwbe.asp) ;

**GUIDELINE 8.** The Town is required, in accordance to OMB guidance in 2CFR part 180, Debarment and Suspension, to verify vendors with whom the Town purchases more than \$25,000 of goods or services during the year with the Excluded Parties List System (EPLS) government website.

**GUIDELINE 9.** The intention of this policy is to comply fully with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, codified in CFR Part 200 at 200.317 through 200.326 (the "Federal Regulations"), which are incorporated by reference into this policy and made a part hereof. A complete and current copy of the Federal Regulations are on file at the

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office of the Town Clerk. Where there is inconsistency between this policy and the Federal Regulations, the Federal Regulations shall control.

**GUIDELINE 10.** This policy shall be reviewed annually by the Town Board at its organizational meeting or as soon thereafter as is reasonably practicable.

These provisions shall apply to the procurement of goods and services related to the implementation of the Federally funded programs and activities.

**RESOLUTION NO. 153:**

Councilwoman White offered the following:

**JUNKYARD LICENSES**

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

**Second by:** Deputy Supervisor Underhill

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

**APPROVED by unanimous vote (4-0)**

**SUSPEND THE RULES**-Motion Councilwoman White, second Councilman Zambito to suspend the rules to introduce an additional resolution.

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

**MOTION CARRIED by unanimous vote (4-0)**

**RESOLUTION NO. 154 :**

Deputy Supervisor Underhill 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 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:** Underhill, Zambito, White Michalak

**APPROVED by unanimous vote (4-0)**

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**RESOLUTION NO. 155:**

Councilwoman Michalak offered the following:

**2901 PEARL STREET ROAD  
SOLAR ENERGY SYSTEM DECOMMISSIONING AGREEMENTS  
MUCKDOG 1 SOLAR  
MUCKDOG II SOLAR**

**WHEREAS**, Cypress Creek Renewables for Muckdog Solar, LLC and Muckdog Solar II, LLC (subsequently changed to Pearl Solar, LLC and Pearl Solar II, LLC) submitted applications to the Town of Batavia for Site Plan Approval for solar farm installation to be erected on parcel 2901 Pearl Street Road; and

**WHEREAS**, the Town of Batavia Planning Board approved the applications on July 18, 2017, 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 solar installations to be located in the Town on said parcel for signature by the Town and the operator of 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 Solar Energy System Decommissioning Agreements for Muckdog Solar, LLC and Muckdog Solar II, LLC (subsequently changed to Pearl Solar, LLC and Pearl Solar II, LLC), Solar project at 2901 Pearl Street Road, Batavia, one agreement by and between the Town of Batavia and Pearl Solar, LLC and one agreement by and between the Town of Batavia and Pearl Solar II, LLC, copies of which are annexed hereto and made a part of the Town Board Minutes.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (4-0)**

**Abstract No. 6-2018:** Motion Councilman Zambito, second Councilwoman White to authorize the Supervisor to pay the following vouchers:

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General	\$65,801.25
Highway	11,771.35
Sewer No. 1	4,764.80
Sewer No. 2	20,980.11
Water	32,346.75
Hwy Equip	120.36
Ellicott Trail	5,319.92
Southwest Water	54,654.22
Sewer Capacity	2,521.62
Bat-Beth Twln	955.50
Twln Joint Water	4,475.42
<b>Total</b>	<b>\$203,711.30</b>

Check numbers 21254 -21271, 21273-21284, 21286-21333, 21335 SM: 1110, ACH: \$36,275.62, Online: \$6,849.80

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

**MOTION CARRIED by unanimous vote (4-0)**

**DEPARTMENT REPORTS:**

**The Supervisor reported on the following department:**

**Building Department:** The Supervisor read the Building Inspector's report (attached)

**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. at County Building 2. Hosted by the Town of Elba

**COMMUNICATIONS:**

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

**May Town Clerk** monthly report collected a total of \$13,007.45, remitted \$12,504.49 to the Supervisor for the Local Share.

**Training-** Genesee County Planning is holding a Powers and Duties of the Zoning Board of Appeals Training on June 28, 2018 at the Bergen Village Hall. NYSERDA is holding a Solar Workshop July 18, 2018 in Victor. Town officials have been advised.

**Dog Enumeration-** Dog Enumeration postcards will be going out the end of the month

**ADJOURNMENT:**

Motion Councilwoman Michalak, second Councilman Zambito to adjourn the Regular Town Board Meeting at 7:25 P.M.

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

**MOTION CARRIED by unanimous vote (4-0)**

Respectfully submitted,

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Teresa M. Morasco  
Town Clerk