

**SEPTEMBER 19, 2018
REGULAR TOWN BOARD MEETING**

Town Hall

7:00 P.M.

Greg Post, Supervisor led the pledge to the flag.

Roll Call

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

Others

Present: Town Clerk Morasco

The Supervisor called the meeting to order at 7:01 P.M.

Public Hearing Local Law 5 of 2018- The Supervisor called the Public Hearing to Order for Local Law 5 of 2018 - Amending Code of Ethics Law at 7:02 P.M. - Minutes for public hearing entered separately.

August 15, 2018 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)

September 5, 2018 Special Town Board Meeting: Motion Councilwoman Michalak, second Councilman Zambito to approve the minutes as written.

AYES: Michalak, Zambito, White, Underhill, Post

MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 189:

Councilwoman White offered the following:

RESOLUTION ADOPTING LOCAL LAW No. 5 of 2018

WHEREAS, proposed Local Law No. 5 of 2018 of the Town of Batavia entitled " A Local Law to Amend the Code of Ethics of the Town of Batavia ", which proposed Local Law in its final form was presented to the Town Board at the meeting held on August 15, 2018, and a copy thereof was kept with the Town Clerk and copies both laid upon the desks of the members of said Town Board Members and mailed to each member of the Town Board Members not in attendance at said meeting; and

WHEREAS, a public hearing on the advisability of enacting said proposed Local Law was held on September 19, 2018, before this Town Board, pursuant to public notice duly published in The Daily News according to law, at which time all interested persons were heard; and

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WHEREAS, the Town Board of the Town of Batavia, New York is of the opinion that adoption of said proposed Local Law No. 5 of 2018 is in the best interest of the Town of Batavia, New York.

NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Batavia, New York that said proposed Local Law No. 5 of 2018 entitled "A Local Law to Amend the Code of Ethics of the Town of Batavia" be and the same hereby is adopted; and

BE IT FURTHER RESOLVED, that a certified copy of said Local Law No. 5 of 2018 be filed with the New York State Secretary of State in accordance with Law.

Second by: Councilwoman Michalak

Ayes: White, Michalak, Zambito, 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.

County
City
Town
Village

of Batavia, Genesee County, New York

Local Law No. 5 of the year 2018.

A local law known as Local Law to Amend the Code of Ethics of the Town of Batavia, New York
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County
City
Town
Village

of **Batavia, Genesee County, New York** as follows:

SECTION I. TITLE AND AUTHORITY

This local law is entitled "A Local Law to Amend the Code of Ethics of the Town of Batavia," and is adopted pursuant to authority granted in the Municipal Home Rule Law of the State of New York.

SECTION II. AMENDMENT OF THE CODE OF ETHICS

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The Code of Ethics of the Town of Batavia, codified at Chapter 11 of the Code of the Town of Batavia and adopted on December 8, 1970 by Local Law No. 1 of 1970, is hereby amended as follows:

- (a) The title of the law shall be changed from “Code of Ethics” to “Code of Ethics and Conflicts of Interest.”
- (b) Existing §11-5 shall be modified as follows:
 - a. The title of the section shall be changed from “Distribution of the Code of Ethics” to “Distribution.”
 - b. Reference to “Code of Ethics” shall be changed to “Law.”
- (c) A new section entitled “Incorporation of the Code of Federal Regulations” shall be added before existing §11-7, which shall provide as follows:

The provisions of 2CFR 200.318(c)(1), relating to conflicts of interest in certain federal contracts, as may be amended from time to time, are hereby incorporated by reference into this Law and made a part hereof.

- (d) Existing §11-7 entitled “Penalties for Offenses” shall be renumbered to §11-8.

SECTION III: EFFECTIVE DATE AND SEVERABILITY

This local law shall take effect upon the filing with the Secretary of State in accordance with the Municipal Home Rule Law and Town Law. If any part or section of this local law shall be held to be invalid, the remaining provisions thereof shall not fail but shall remain in full force and effect. All local laws, ordinances, rules or regulations, or parts or portions thereof that conflict or are contrary to any portion of this local law are hereby repealed.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

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1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2018, of the ~~(County)~~ (City) (Town) ~~(Village)~~ of Batavia, New York was duly passed by the Town Board on _____, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the ~~(County)~~ (City) ~~(Town)~~ (Village) _____ was duly passed by the _____ on _____ 20____, and was (approved) (not disapproved) _____ (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 2017, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

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

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

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

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

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

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

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

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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 M. Morasco
Town Clerk, Town of Batavia

Date: _____, 2018

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF GENESEE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Andrew W. Meier
Town Attorney
~~County~~
City of Batavia
Town
~~Village~~

Date: _____, 2018

RESOLUTION NO. 190:

Deputy Supervisor Underhill offered the following:

TRAINING WORKSHOP

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

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training workshops:

Rhonda Saulsbury- Valuation of Wineries & Breweries Seminar (was) September 14, 2018 in Williamsville. There is no cost for this training

Sherry Tacy- Using State Archives Local Government Retention Schedules Workshop October 3, 2018 in Webster. There is no cost for this training. A Town vehicle will be used.

Hiedi Librock and Marcy Crandall- NYSLRS Seminar October 4, 2018 in Lackawanna. There is no cost for this seminar. A Town vehicle will be used.

Rhonda Saulsbury- Uniform Standards of Professional Appraisal Practice (USPAP) Update Course October 19, 2018 at GCC. The cost for this training is \$125.00.

Steven R. Tanner, Kathy Jasinski, and Donald Partridge- GFLRPC Fall Local Government Workshop November 14, 2018 at the Quality Inn in Batavia. The cost for this training is \$75.00 each.

Second by: Councilman Zambito

Ayes: Underhill, Zambito, White, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 191:

Supervisor Post offered the following:

RESOLUTION TO APPROVE A WATER CUSTOMER AGREEMENT

WITH KENNETH J. AND CATHERINE M. MARBLE

WHEREAS, the Town of Batavia has received a request from two of its residents, namely, Kenneth J. and Catherine M. Marble, residing at 8974 Upton Road, and

WHEREAS, the Town of Batavia desires to provide water service to their residence, upon the same terms and conditions of other residents of the Town of Batavia that are served pursuant to an out of district Water Customer Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that the Supervisor is hereby authorized and directed on behalf of the Town of Batavia to execute a proposed Water Customer Agreement, by and between the Town of Batavia, and Kenneth J. and Catherine M. Marble, residing at 8974 Upton Road, in the Town of Batavia, New York, and

BE IT FURTHER RESOLVED that the sale of water to these out of district customers in the Town of Batavia will not at this time reduce the supply of the Town of Batavia water so as to render the same insufficient to service all water districts within the Town of Batavia for the residents located therein, and

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BE IT FURTHER RESOLVED that upon completion of the execution of the Water Customer Agreement, employees of the Town are hereby authorized and directed to take all steps necessary to provide water service to Kenneth J. and Catherine M. Marble, and to invoice them for the required charges set forth therein.

Second by: Councilwoman White

Ayes: Post, White, Underhill, Michalak, Zambito

APPROVED by unanimous vote (5-0)

WATER CUSTOMER AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2018, by and between the TOWN OF BATAVIA, NEW YORK, a municipal corporation duly organized and existing under and pursuant to the laws of the State of New York, having its office and principal place of business at 3833 West Main Street Road, in the Town of Batavia, County of Genesee and State of New York, hereinafter called “Town”, and KENNETH J. AND CATHERINE M. MARBLE, residing at 8974 Upton Road, in the Town of Batavia, County of Genesee and State of New York, hereinafter called “Customers”.

WITNESSETH:

WHEREAS, the Town is the owner of the Batavia Southwest Water District in the Town of Batavia, New York, which Water District provides water service to residents in a portion of said Town; and

WHEREAS, the Customers own a parcel of land on Upton Road in the Town of Batavia, New York, which is adjacent to the current endpoint of the Batavia Southwest Water District on said Road; and

WHEREAS, the Customers have requested permission to become customers of and to purchase water from the Town; and

WHEREAS, the Town of Batavia has, by Resolution dated September 19, 2018, determined that the sale of water to the Customers will not at this time reduce the supply of its water so as to render the same insufficient to service all water districts within the Town of Batavia or their inhabitants;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties pursuant to Section 198(3) (b) of the New York State Town Law covenant and agree as follows:

1. The Town will install a water service meter pit and metering device necessary to have the Customers extend a water line to their residence, located at 8974 Upton Road, Tax Map No. 14.-1-23.112.
2. The Town shall provide water service to the Customers upon the same terms and conditions of the other property owners located in the Batavia Southwest Water District; including the obligation of the Customers to pay the same amount for the debt service cost related to the Batavia Southwest Water District, and to pay user charges for water based upon water consumption at the same rates as property owners of the Batavia Southwest Water District, as billed by the Town.
3. The Customers shall install and maintain all lines from the water service line to their residence, as well as all internal plumbing in the residence, at no cost to the Town.
4. Customers further covenant and agree as follows:
 - A. To use said water only for domestic and non-business purposes for the residence

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which will be serviced by this water line.

B. Not to permit any tap-in to any of the water lines installed by them 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 water sold to residents of the Town of Batavia water districts as if said Customers were located within the Batavia Southwest Water District.

D. To become a part of any water district or extension which geographically encompasses the property served by this water line and shall affirmatively sign any petition that seeks to establish such water district; as well as refraining from any acts in opposition to such a water district, such as voting against the same in any referendum. Upon becoming part of the new water district, Customers 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.

E. Not to assign this Agreement without the prior written consent of the Town. Any assignment in violation of the foregoing shall be deemed void.

F. To be responsible for all repairs to the water line from the water service line to the home, and for any damages caused by the failure of this line.

5. The Agreement shall automatically terminate upon the happening of any of the following events:

A. The formation of a water district or extension geographically encompassing the property herein serviced by this water line.

B. A determination by the Town, in its sole judgment, that the sale of water hereunder will reduce the supply of water to a level insufficient to meet the needs of any water district within the Town or the inhabitants thereof and/or for any other reason that continuing to supply the Customers will not be in the best interest of other Town residents.

C. Any breach of this Agreement by the Customers.

6. There are no other Agreements or understandings, either orally or written, between the parties affecting this Agreement. No changes or additions, or deletions of any portion of this Agreement shall be valid or binding upon the parties hereto, unless the same is approved in writing by the parties.

7. This Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto and their heirs, successors and permitted assigns.

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

TOWN OF BATAVIA, NEW YORK

By: _____
GREGORY H. POST, Town Supervisor

KENNETH J. MARBLE

CATHERINE M. MARBLE

State of New York }

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County of Genesee}ss.

On this _____ day of _____, 2018, 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

State of New York}
County of Genesee}ss.

On this _____ day of _____, 2018, before me, the undersigned, personally appeared KENNETH J. MARBLE, 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

State of New York}
County of Genesee}ss.

On this _____ day of _____, 2018, before me, the undersigned, personally appeared CATHERINE M. MARBLE, 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. 192:

Councilwoman Michalak offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW NO. 6 of 2018
AND TO SCHEDULE A PUBLIC HEARING**

WHEREAS, the Town Board of the Town of Batavia, New York desires to consider adopting legislation to override the limit on the amount of real property taxes that may be levied by the Town of Batavia pursuant to General Municipal Law § 3-c, and to allow the Town of Batavia to adopt a town budget for fiscal year 2019 that requires a real property tax levy in excess of the tax levy limit, also known as Town of Batavia Local Law No. 6 of 2018.

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NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York that proposed Local Law No. 6 of 2018 entitled "A Local Law to Override the Tax Levy Limit Established in General Municipal Law § 3-c", 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 October 17, 2018, and that a public hearing be held before this Town Board on the 17th day of October, 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 ten (10) calendar days, exclusive of Sunday, prior to the date of said public hearing; and

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

Second by: Councilman Zambito

Ayes: Michalak, Zambito, White, Underhill, Post

APPROVED by unanimous vote (5-0)

NOTICE OF PUBLIC HEARING BY THE TOWN BOARD
OF THE TOWN OF BATAVIA, NEW YORK
TO CONSIDER ADOPTING A PROPOSED LOCAL LAW

PUBLIC NOTICE is hereby given that there has been presented to the Town Board of the Town of Batavia, New York on the 19th day of September, 2018, proposed Local Law No. 6 of 2018 entitled "A Local Law to Override the Tax Levy Limit Established in General Municipal Law § 3-c". Said Local Law will allow the Town of Batavia to override the limit on the amount of real property taxes that may be levied, pursuant to General Municipal Law § 3-c, and to allow the Town of Batavia to adopt a town budget for fiscal year 2019 that requires a real property tax levy in excess of the tax levy limit.

PLEASE TAKE FURTHER NOTICE that on 17th day of October, 2018, at 7:00 o'clock in the afternoon of that day the Town Board of the Town of Batavia, New York will conduct a public hearing at the Batavia Town Hall located at 3833 West Main Street Road, in the Town of Batavia, New York, for the purpose of considering the advisability of enacting said proposed Local Law, at which time and place all persons interested will be heard.

A copy of said proposed Local Law is on file at the office of the Batavia Town Clerk, 3833 West

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Main Street Road, Batavia, New York and is open for inspection during regular Office hours.

Dated: September 19, 2018

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

Local Law Filing New York State Department of State
41 State Street, Albany, NY 12231

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

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

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

Local Law No. 6 of the year 2018.

A local law To Override the Tax Levy Limit Established in General Municipal Law 3-c

(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~~

Section 1. Legislative Intent

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Batavia pursuant to General Municipal Law §3-c and to allow the Town of Batavia to adopt a budget for the fiscal year commencing January 1, 2019 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

Section 2. Authority

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This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the Town Board to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the Town Board.

Section 3. Tax Levy Limit Override

The Town Board of the Town of Batavia, County of Genesee, is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2019 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law, §3-c.

Section 4. Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such other or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its separation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 6 of 2018, of the (~~County~~) (~~City~~) (Town) (~~Village~~) of Batavia, New York was duly passed by the Town Board on _____, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (~~County~~) (~~City~~) (Town) (Village) _____ was duly passed by the _____ on _____ 20____, and was (approved) (not disapproved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 2017, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

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

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

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

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

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

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

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

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

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

I further certify that I have compared the preceding local law with the original on file in this office and

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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 M. Morasco
Town Clerk, Town of Batavia

Date: _____, 2018

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF GENESEE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Andrew W. Meier
Town Attorney
County _____
City of Batavia
Town _____
Village _____

Date: _____, 2018

RESOLUTION NO. 193:

Councilman Zambito offered the following:

**RESOLUTION FOR ACQUISITION AND TRANSFER OF
REAL PROPERTY
CALL PARKWAY**

WHEREAS, Genesee Gateway Local Development Corporation (GGLDC) has offered to sell to the Town of Batavia a part of a parcel of land located on Call Parkway in Gateway II Industrial Park, pump station; and

WHEREAS, part of parcel, known as tax map # 4.-1-26.123, more fully depicted as Parcel A-1

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on the subdivision map prepared by Kevin M. O'Donoghue on June 25, 2018, consisting of approximately 0.08 acres, and

WHEREAS, the Town Board desires to accept the offer to purchase said parcel for \$1.00; and

WHEREAS, such action is not subject to a permissive referendum.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that the purchase of part of parcel, known as tax map # 4.-1-26.123, more fully depicted as Parcel A-1 on the subdivision map prepared by Kevin M. O'Donoghue on June 25, 2018 from GGLDC for \$1.00 is hereby authorized; and be it further

RESOLVED that this parcel of land shall be used for a public purpose, namely to maintain Town road as part of the Town's roadway infrastructure, as well as any appurtenant surface or subsurface public utility infrastructure; and be it further

RESOLVED, that the Town Board finds this conveyance to be in the public interest, and be it further

RESOLVED that the Town Supervisor is hereby authorized and directed to sign all documents necessary to accept the Quit Claim Deed from GGLDC, a copy of which is annexed hereto and made a part of the minutes, and to record said Deed.

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

RESOLUTION NO. 194:

Councilwoman White offered the following:

DATTO SAAS PROTECTION AND DATTO ALTO
SUBSCRIPTIONS
HURRICANE TECHNOLOGIES

WHEREAS, the Town is taking continuous steps to insure disaster recovery and continuity; and

WHEREAS, Hurricane Technologies provided the Town of Batavia a quote for Datto Saas Protection at a cost of \$150.00 per month and Datto ALTO -Business Continuity/Disaster Recovery Backup Subscription at a cost of \$132.34 per month per server (quote attached); and

WHEREAS, the Datto Saas is an automated backup service for Office 365, which includes emails; and

WHEREAS, the Datto ALTO is an entire backup of three servers with a data retention period of one year.

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NOW, THEREFORE, BE IT

RESOLVED the Batavia Town Board hereby authorizes Datta Saas Protection at a cost of \$150.00 per month and Datto ALTO Business Continuity//Disaster Recovery Backup Subscription at a cost of \$132.34 per month per server through Hurricane Technologies; and be it further

RESOLVED, the Supervisor is hereby authorized to accept and execute the quote.

Second by: Councilman Zambito

Ayes: White, Zambito, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 195:

Deputy Supervisor Underhill offered the following:

APPOINTMENT TO ASSESSMENT BOARD OF REVIEW

WHEREAS, Tammy Sotir's term on the Assessment Board of Review expires September 30, 2018 and wishes to be re-appointed to the Assessment Board of Review.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby re-appoints Tammy Sotir, 3890 Pike Road, Batavia, New York, to the Town of Batavia Assessment Board of Review, commencing effective date October 1, 2018 and expiring September 30, 2023; and be it further

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

Ayes: Underhill, White, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 196:

Supervisor Post offered the following:

DEDICATION OF CALL PARKWAY WATERMAIN

WHEREAS, the developer for the Galina Development project on Call Parkway has installed a new water main which is necessary to complete the water main loop on Call Parkway; and

WHEREAS, the contractor has constructed the water main generally described as follows:

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1150 LF of 8” PVC water main beginning 450 ft. east of NYS Route 98 and extending easterly to the 90 degree bend in the roadway. The water main is located within the road right of way on Call Parkway.

Total approximate value of water improvements \$ 90,000

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, the developer 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 1150 LF of 8” PVC water main beginning 450 ft. east of NYS Route 98 and extending easterly to the 90 degree bend in the roadway.

Second by: Councilman Zambito

Ayes: Post, Zambito, White, Underhill, Michalak

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 197:

Councilwoman Michalak offered the following:

**RESOLUTION TO APPROVE AMEND DRAINAGE EASEMENT AGREEMENT
FOR THE STRINGHAM DRIVE CULVERT REPLACEMENT
COUNTRY MEADOWS NY LLC**

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

WHEREAS, at the Highway Department needs a drainage easement from Country Meadows NY LLC in order to install the new culvert under the road and provide a drainage ditch, and

WHEREAS, the Town of Batavia Town Board approved the easement from Country Meadows NY LLC on June 20, 2018, resolution number 137; and

WHEREAS, the previously approved easement needed to be revised.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that the revised Drainage Easement Agreement granted by Country Meadows NY LLC, a copy of which is annexed hereto and made a part of the minutes, regarding tax map no. 9-1-33.11, running to the Town of Batavia is hereby approved and accepted, and the Supervisor is hereby authorized to execute on

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behalf of the Town of Batavia any documents necessary to record the easement.

Second by: Councilman Zambito

Ayes: Michalak, Zambito, White, Underhill, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 198:

Councilman Zambito offered the following:

PURCHASE GRADING LASER FOR
HIGHWAY DEPARTMENT

WHEREAS, the Highway Superintendent solicited quotes for a grading laser to be used by the Highway Department to set culvert pipes. The lowest quote was from D&L Supply and Rental at a price of \$2,125.00. The Highway Superintendent recommends purchasing the laser from D&L Supply.

RESOLVED, the Batavia Town Board hereby authorizes the purchase of a new grading laser at a price of \$2,125.00 from D&L supply and rental, and be it

FURTHER RESOLVED, the expenditure will be appropriated from line item DA 5130.200.

Second by: Deputy Supervisor Underhill

Ayes: Zambito, Underhill, Michalak, White, Post

APPROVED by unanimous vote (5-0)

Abstract No. 9-2018: Motion Deputy Supervisor Underhill, second Councilman Zambito to authorize the Supervisor to pay the following vouchers:

General	\$77,414.37
Highway	220,050.03
Sewer No. 1	2,654.46
Sewer No. 2	2,758.17
Water	22,290.30
Batavia-Bethany	1,901.30
Southwest	39.00
Townline Joint	1,067.66
Total	\$328,175.29

Check numbers 21465 thru 21538, SM- 1114, ACH: \$11,316.87, Online: \$6,977.38

Ayes: White, Zambito, Underhill, Michalak, Post

MOTION CARRIED by unanimous vote (5-0)

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DEPARTMENT REPORTS:

The Supervisor reported for the following departments

History – the Supervisor read the attached report submitted by Historian Berneda Scoins

Building – the Supervisor read the attached report submitted by Building Inspector Dan Lang

Highway- drainage work, assisting with water-sewer operations, modifying equipment to prepare for winter

Water/Sewer- checking on mis-read meters, working on the global meter reading system, doing standard flushing and inspections and maintenance on pump stations.

Supervisor’s Report:

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

GAM -

COMMUNICATIONS:

The Town Clerk reported on the following:

August Town Clerk monthly report collected a total of \$51,269.83, remitted \$47,285.22 to the Supervisor for the Local Share.

Training- Erie County Cooperative Extension is having a Local Planning for Agriculture Training on September 25, GFLRPC is having the Fall Local Government Workshop on November 14, and NYMIR is having a Snow and Ice Removal Training October 24. Town officials have been advised of these trainings.

Liquor License- Received notice the Acme Holdings of NY, Inc – Dibble Family Center have applied to remove their liquor license.

ADJOURNMENT:

Motion Deputy Supervisor Underhill, second Councilwoman White to adjourn the Regular Town Board Meeting at 7:15 P.M.

Ayes: Underhill, White, Michalak, Zambito, Post

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk