

**JANUARY 23, 2019  
SPECIAL TOWN BOARD MEETING**

**Town Hall**

**7:00 P.M.**

Maddie Zambito, Councilman's Daughter led the pledge to the flag.

**Roll Call**

**Present:** Supervisor Post  
Councilwoman White  
Councilwoman Michalak  
Councilman Zambito

**Absent:** Deputy Supervisor Underhill

**Others**

**Present:** Town Clerk Morasco

The Supervisor called the meeting to order at 7:00 P.M.

**RESOLUTION NO. 39:**

Councilwoman White offered the following:

**AN AMENDING AND RESTATING BOND RESOLUTION, DATED JANUARY 23, 2019, OF THE TOWN BOARD OF THE TOWN OF BATAVIA, GENESEE COUNTY, NEW YORK (THE "TOWN"), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON FEBRUARY 15, 2017, AND AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT CONSISTING OF THE CONSTRUCTION OF A PEDESTRIAN TRAIL (THE ELLICOTT TRAIL PROJECT), AT AN ESTIMATED MAXIMUM COST OF \$1,992,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,992,000 OF THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SUCH PURPOSE, SUCH AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.**

WHEREAS, on February 15, 2017, the Town Board of the Town of Batavia, Genesee County, New York (the "Town") adopted a certain bond resolution (the "Original Bond Resolution") entitled:

A BOND RESOLUTION, DATED FEBRUARY 15, 2017, OF THE TOWN BOARD OF THE TOWN OF BATAVIA, GENESEE COUNTY, NEW YORK (THE "TOWN") AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT CONSISTING OF THE CONSTRUCTION OF A PEDESTRIAN TRAIL (THE ELLICOTT TRAIL PROJECT), AT AN ESTIMATED

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MAXIMUM COST OF \$1,616,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,616,000 OF THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SUCH PURPOSE, SUCH AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

and

WHEREAS, the Town Board wishes to modify the Original Bond Resolution for the primary purpose of modifying the scope of the project to extend the pedestrian trail from 4.6 miles to 4.9 miles and to make other modifications to the Original Bond Resolution as may be consistent with the project plan and the law; and

WHEREAS, due to an increase in the cost of materials and labor and a modification to the scope of the project, the Town Board wishes to modify the Original Bond Resolution for the primary purposes of increasing: a) the estimated maximum cost of the project from \$1,616,000 to \$1,992,000 and b) the amount of serial bonds authorized to be issued from \$1,616,000 to \$1,992,000, and to make other modifications to the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Original Bond Resolution is being modified to include additional improvements as previously described, and is otherwise being reaffirmed and ratified in all other material respects; and

WHEREAS, the Town Board now wishes to amend and restate (in its entirety) the original February 15, 2017 Bond Resolution for the reasons identified above, and to make other determinations to the Original Bond Resolution as may be consistent with law; and

WHEREAS, the Town has previously issued bond anticipation notes pursuant to the Original Bond Resolution, but has not yet entered into permanent financing arrangements thereunder (i.e., the issuance of long-term serial bonds); and

NOW THEREFORE,

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

SECTION 1. The Town is hereby authorized to undertake a capital improvements project known as the Ellicott Trail project generally consisting of the construction of an approximate 4.9 mile pedestrian trail, such work to include, where applicable, the reconstruction and installation of bike lanes, pedestrian bridges, signage, pedestrian safety improvements, streetscape improvements, installation of a new pedestrian bridge and the refurbishment of an old railroad bridge, as well as other such improvements as more fully identified in (or contemplated by) a report prepared by Barton & Loguidice, D.P.C., including

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all preliminary work and necessary equipment, materials and related site work and all preliminary costs and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The estimated maximum cost of the Purpose is \$1,992,000.

SECTION 2. The Town Board plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an aggregate principal amount not to exceed \$1,992,000 of the Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, such amount to be offset by any federal, state, county and/or local funds received. Unless paid from other sources or charges, there shall annually be levied on all the taxable real property of the Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 3. It is hereby determined that the Purpose is an object or purpose described in subdivision 19(c) of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of the Purpose is 15 years; however, the bonds issued pursuant to this resolution, and any bond anticipation notes issued in anticipation of the sale of said bonds, will mature no later than five years from the date of original issuance of such bonds or notes.

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

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will not be in excess of five years.

SECTION 6. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation will be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, there will annually be levied on all the taxable real property of the Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

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

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SECTION 8. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after February 15, 2017 or within 60 days prior to the earlier of (a) February 15, 2017 or (b) the date of any earlier expression by the Town of its intent to reimburse such expenditures) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration (or reaffirmation) of the Town's original declaration of its "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

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

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

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

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

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

1. (a) such obligations were authorized for an object or purpose for which the Town is not authorized to expend money, or
- (b) the provisions of the law which should be complied with as of the date of publication of this notice were not substantially complied with

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

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such publication of this notice, or

2. such obligations were authorized in violation of the provisions of the Constitution of New York.

SECTION 14. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance Law, in the official newspaper(s) of the Town, or if no newspaper(s) have been so designated, then in a newspaper having general circulation in the Town, which newspaper shall be designated by the Town Board in a separate resolution.

SECTION 15. Nothing in this amendment shall affect the validity of the original February 15, 2017 bond resolution, or any action taken there under and any such actions are hereby ratified.

SECTION 16. This resolution is effective immediately.

\* \* \* \*

The question of the adoption of the foregoing resolution (including the amending and restating bond resolution) was duly put to vote on a roll call, which resulted as follows:

AYES: Councilwoman White  
Councilman Zambito  
Councilwoman Michalak  
Supervisor Post

NOES:

ABSENT: Daniel Underhill

The foregoing resolution was thereupon declared duly adopted.

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

**RESOLUTION NO. 40:**

Supervisor Post offered the following:

**RESOLUTION INCREASING BUDGETARY LINE ITEMS  
INSURANCE RECOVERY FUNDS**

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**RESOLVED**, the Batavia Town Board hereby authorizes the following budget line item increases to account for insurance recovery funds for the following incidents:

**August 24, 2018 Incident in the amount of \$8,700.00**

Revenue Line Item:	Amount:	Expenditure Line Item:	Amount:
SW2680	\$8,700.00	SW8340.400	\$8,700.00

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

**ADJOURNMENT:**

Motion Councilwoman White, second Councilman Zambito to adjourn the Special Town Board Meeting at 7:05P.M.

**Ayes:** White, Zambito, Michalak, Post  
**MOTION CARRIED by unanimous vote (4-0)**

Respectfully submitted,

Teressa M. Morasco  
Town Clerk