

**MARCH 20, 2019
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
3 High School Students (2 from Alden, 1 from Notre Dame)

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

February 20, 2019 Public Hearing-Local Law 1 of 2019 and February 20, 2019 Regular Town Board Meeting: Motion Deputy Supervisor Underhill, second Councilwoman White to approve the minutes as written.

Ayes: Underhill, White, Michalak, Zambito, Post

MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 60:

Councilwoman White offered the following:

**RESOLUTION AUTHORIZING SUPERVISOR TO SIGN DRAINAGE EASEMENT
AGREEMENT FOR OAKWOOD HILLS SUBDIVISION**

WHEREAS, Oakwood Hills, LLC (the "LLC") and Oakwood Hills Association, Inc. (the "Association") are owners of certain lands with improvements collectively comprising the Oakwood Hills Subdivision located at the Northwest corner of the intersection of NYS Route 5 and Seven Springs Road in the Town of Batavia, New York; and

WHEREAS, as part of the construction of such subdivision, various drainage improvements were designed and built within the subdivision to manage storm water runoff therein; and

WHEREAS, the management and maintenance of such drainage improvements is to be the sole responsibility of the Association, and

WHEREAS, in the event the Association fails to maintain the drainage improvements, the Town, LLC and Association have agreed to permit the Town to assume such maintenance through a drainage district heretofore established by the Town, and

WHEREAS, the parties wish to enter into a Drainage Easement Agreement, which is in final

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form and has been presented for consideration, setting forth the terms and conditions of such maintenance of the drainage improvements by the Association, and further providing the Town certain access rights upon such lands as may be necessary to maintain the drainage improvements in the future in the event the Association defaults in its maintenance obligation,

NOW, THEREFORE, be it

RESOLVED, the Batavia Town Board hereby authorizes and directs the Supervisor to execute the Drainage Easement Agreement, a copy of which is annexed hereto and made a part of the minutes, with the LLC and Association on behalf of the Town, together with any other necessary instruments necessary to record the Agreement, and to file same in the office of the Genesee County Clerk.

Second by: Deputy Supervisor Underhill

Ayes: White, Underhill, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

DRAINAGE EASEMENT AGREEMENT

THIS INSTRUMENT, made this _____ day of _____, 2019,

BETWEEN

OAKWOOD HILLS ASSOCIATION, INC., a New York not-for-profit corporation with offices located at 4559 West Saile Drive, Batavia, New York 14020, hereinafter referred to as the "Association," and

OAKWOOD HILLS, LLC, a New York Limited Liability Company with offices located at 4559 West Saile Drive, Batavia, New York 14020, hereinafter referred to as the "LLC," and

TOWN OF BATAVIA, NEW YORK, a New York Municipal Corporation having offices located at 3833 West Main Street Road, Batavia, New York 14020, hereinafter referred to as "Town".

WITNESSETH

WHEREAS, the Association is the owner of lands situated in the Town of Batavia, County of Genesee and State of New York, within a residential subdivision locally known as "Oakwood Hills," and located on the Northwest corner of the intersection of NYS Route 5 and Seven Springs Road in the Town of Batavia, New York (the "Subdivision"), consisting primarily of non-developable lands, as more particularly described in a Deed recorded in the Genesee County Clerk's Office on February 21, 2018, as Instrument No. DE2018-269 (the "Property"); and

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WHEREAS, the LLC is the owner of additional lands situated in the Subdivision, consisting primarily of residential building lots, as more particularly described in a Deed recorded in the Genesee County Clerk's Office on August 26, 2016 as Instrument No. DE2016-514 (collectively with the earlier-described lands owned by the Association, the "Property"); and

WHEREAS, the property is improved with certain facilities which regulate storm water upon the lands comprising the Subdivision and the Property ("Facilities"), and

WHEREAS, the Association has agreed to maintain the Facilities at its own expense and to fund such activities from owners of property within the Subdivision through homeowner's association fees, and

WHEREAS, in the event the Association fails to adequately maintain the Facilities, the Town desires that the Association and LLC grant an easement to the Town over such lands in the Subdivision and the Property as are necessary for the Town to repair and maintain the Facilities, and to assess the costs of same against the various parcels included in the Oakwood Hills Drainage District (the "District") on an ad valorem basis, and

WHEREAS, to promote efficient and cost-effective maintenance of the Facilities by the Association, the parties now wish to enter into an agreement to provide for the long-term maintenance and continuation of stormwater control measures by the Association, which includes maintenance, cleaning, repair, and replacements in perpetuity, and further to provide the Town an easement over the lands of the Association and LLC to assume maintenance responsibility if necessary.

NOW, THEREFORE, the Association and LLC, in consideration of the sum of One Dollar (\$1.00), lawful money of the United States, and other good and lawful consideration paid by the Town, receipt of which is hereby acknowledged, do hereby grant and release unto the Town, its successors and assigns, a permanent and perpetual easement and right of way over property of the Association and LLC as shown on Schedules A and B, respectively, attached hereto, to facilitate the maintenance by the Town of the Facilities thereon.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. The Association hereby agrees to maintain the Facilities according to the following:
 - a. The Association shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices, retention and detention ponds, rain gardens and bio retention swales.

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- b. The Association shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
 - c. The Association shall provide for the periodic inspection of the stormwater control measures, not less than once in every three-year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a licensed professional who shall prepare and submit to the Town, within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.
 - d. The Association shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Town.
 - e. The Association shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Town or in accordance with the recommendations of a New York State licensed professional.
 - f. Should the Association, upon the determination of the Town, defaults in its obligation to substantially comply with the terms of the Agreement, and if the Association fails to cure such default with 30 days of its receipt of a Notice to Cure served upon the Association by the Town, the Town may undertake such work as is necessary to properly maintain the Facilities, and charge the cost of such work to the owners of the various parcels which are a part of the District, by exercising its rights and privileges granted by Owner to Town under the easement created by Paragraph 2 of this Agreement, and otherwise as provided by law.
2. The Association does hereby grant to the Town a perpetual, non-exclusive easement over, across, under, through and upon that portion of the Property as shown on Schedule A, and the LLC does hereby grant to the Town a perpetual, non-exclusive easement over, across, under, through and upon that portion of the Property as shown on Schedule B (collectively, the "Easement Area"), for the purpose of installing, constructing, operating, repairing, maintaining, relocating, replacing, removing and/or changing the size of the storm water treatment areas and drainage areas and pipes. This Easement is given together with the right of the Town to enter upon the Easement Area and over such drives, lanes, and ways as exist thereon to reasonably access and maintain the Facilities. This easement is granted subject to the following:
- a. The Town shall have the right to remove trees and shrubs or branches from within the Easement Area which is necessary, in the sole but reasonable opinion of the Town, for the use of the Easement Area by the Town. Notwithstanding anything

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to the contrary, the Town shall not be liable to the Association or LLC for the value of trees, shrubs or branches that are removed from within the Easement Area, or any value that they may add to the property of Association or LLC.

- b. The Association and LLC shall have the right to use the surface of the Easement Area provided that such use shall not interfere with, obstruct or endanger any of the rights herein granted, and further provided that no house or other structure shall be erected or ground surface grades changed within the Easement Area without prior written consent of the Town.
- c. The easement and right of way granted herein is permanent and perpetual and shall for all purposes be construed as a covenant running with the land and shall be binding upon the heirs, distributees, successors and assigns of the Association and LLC.
- d. Association and LLC do hereby lawfully covenant with the Town that they are lawfully seized and possessed of the real estate above described and that they have a good and lawful right to convey it or any part of it to the Town.
- e. In further consideration of said grant the Town shall, after the initial installation or subsequent maintenance of any of the Storm Water Treatment and Drainage areas, restore the surface disturbed as nearly as practicable to the same condition as before said installation or maintenance work.

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IN WITNESS WHEREOF, This Agreement is effective as of the date first set forth above.

OAKWOOD HILLS ASSOCIATION, INC.

By: _____
Peter H. Zeliff, President

OAKWOOD HILLS, LLC

By: _____
Peter H. Zeliff, Member

TOWN OF BATAVIA

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By: _____
Gregory H. Post, Town Supervisor

STATE OF NEW YORK :
COUNTY OF GENESEE : ss.:

On this ____ day of _____, 2019 before me, the subscriber, personally appeared GREGORY H. POST, who being by me duly sworn, deposes and says: That he is the Supervisor of the Town of Batavia, a municipal corporation of the State of New York named in and which executed the above and within instrument; that he knows the seal of said Town and that the seal affixed to said instrument is the seal of the Town of Batavia; that it was so affixed by order of the Town Board of the Town of Board and that he signed his name thereto by like order.

Notary Public
Genesee County, New York
My Commission Expires _____

STATE OF NEW YORK :
COUNTY OF GENESEE : ss.:

On this ____ day of _____, 2019 before me, the subscriber, personally appeared PETER H. ZELIFF, who being by me duly sworn, deposes and says: That she/he is the President of the OAKWOOD HILLS ASSOCIATION, INC., a not-for-profit corporation existing under the laws of the State of New York, and Member of OAKWOOD HILLS, LLC, a limited liability company existing under the laws of the State of New York, named in and which executed the above and within instrument, and has authority to execute the within document on behalf of the Association and LLC.

Notary Public
Genesee County, New York
My Commission Expires _____

Schedule A

**Legal Description of Lands owned by
Oakwood Hills Association, Inc.**

Drainage Easement Areas

All that tract or parcel of land, situate in the Town of Batavia, County of Genesee, State of New York, as shown as "Easement to the Town of Batavia" on the Final Plat Map for the Oakwood Hills

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Subdivision filed in the Genesee County Clerk's Office on March 31, 2014 under Map No. 2272, Slide No. 52, Cabinet 3, and further described as follows:

- 1) Lot 96 located on the south side of Laurel Oak Way consisting an easement over the entire lot encompassing 5.157 acres.
- 2) Lot 97 located on the east side of Red Oak Lane consisting of an easement over the entire lot encompassing 1.827 acres.
- 3) Lot 93 located on the east side of Pin Oak Circle consisting of an easement over the entire lot encompassing 0.993 acres.
- 4) Lot 92 located on the north side of Red Oak Lane consisting of the easement over a portion of the parcel as shown on the final plat map.
- 5) Lot 95 located between Red Oak Lane and Black Oak Lane consisting of an easement over the entire lot encompassing 2.500 acres.

Schedule B

**Legal Description of Lands owned by
Oakwood Hills, LLC**

Drainage Easement Areas

All that tract or parcel of land, situate in the Town of Batavia, County of Genesee, State of New York, as shown as "Easement to the Town of Batavia" on the Final Plat Map for the Oakwood Hills Subdivision filed in the Genesee County Clerk's Office on March 31, 2014 under Map No. 2272, Slide No. 52, Cabinet 3, and further described as follows:

- 1.) Variable width easements on the south side of lots 50, 51 and 52.
- 2.) A 25-foot wide easement on the south side of lots 40, 41, 42, 43, 44, 45, 46, 47, 48, and 49.
- 3.) A 15-foot wide easement on the east side of lot 36.
- 4.) A variable width easement on the west and south side of lot 35.
- 5.) A 15-foot wide easement on the south side of Lot 34.
- 6.) A 20-foot wide easement on the east side of lots 29, 30, 31 and 32.
- 7.) A 10-foot wide easement on the west side of lot 33.

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- 8.) A 10-foot wide easement on the West and North side of Lot 71.
- 9.) A 10-foot wide easement on the East side of Lot 54.
- 10.) A 20-foot wide easement at the Northwest corner of Lot 8.

RESOLUTION NO. 61:

Deputy Supervisor Underhill offered the following:

TRAINING WORKSHOP

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

Jason Armbrewster and Steven Mountain- Environmental Finance Center 2019 Local Leaders Conference April 2 – April 3, 2019 In Ellicottville, New York. The cost for the training and meals is \$90.00 each.

Steven Mountain – NYAWWA Conference April 16 – 18, 2019. The cost for the training, lodging, travel, and meals is approximately \$722.00.

Jamie Waff – Buildings Standards & Codes Basic Training April 9 -11, May 7 – 9, June 4 – 6, and June 25- 27, 2019 in Cheektowaga. There is no cost for this training. A Town vehicle will be used.

Donald Partridge- Local Planning for Agriculture April 3, 2019 in East Aurora. There is no cost for this training.

Second by: Councilwoman Michalak

Ayes: Underhill, Michalak, Zambito, White, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 62:

Supervisor Post offered the following:

**RESOLUTION ACKNOWLEDGING THAT THE REQUIRED AUDIT OF THE COURT
RECORDS AND DOCKETS WAS CONDUCTED**

WHEREAS, Section 2019-a of the Uniform Justice Court Act requires that Town Justices annually provide their court records and dockets to their respective Town Auditing Board, and that such records be audited and that fact be entered into the minutes of the Board's proceedings; and

WHEREAS, an audit was conducted of the Town Justices records and dockets by Freed, Maxick & Battaglia, P.C.

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NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby acknowledges that the required audit of the Court Records and Dockets was conducted and hereby directs the Supervisor to forward a copy of the auditor's report along with a copy of this resolution to Joan Casazza, Internal Control Liaison, New York State Office of Court Administration, 2500 Pond View, Suite LL01, Castleton-on-Hudson, New York 12033.

Second by: Councilwoman White

Ayes: Post, White, Underhill, Michalak, Zambito

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 63:

Councilwoman Michalak offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW #2 of 2019
AND TO SCHEDULE A PUBLIC HEARING**

WHEREAS, the Town Board of the Town of Batavia, New York desires to consider adopting legislation to enact a Sexual Harassment Policy for the Town of Batavia.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York that proposed Local Law #2 of 2019 entitled "A Local Law to Adopt Sexual Harassment Policy for the Town of Batavia", 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 April 17, 2019, and that a public hearing be held on the 17th day of April, at 7:00 o'clock in the afternoon of that day 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 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)

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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 20th day of March, 2019 proposed Local Law #2 of 2019 entitled “A Local Law to Adopt Sexual Harassment Policy for the Town of Batavia”. Said Local Law proposes to adopt a policy to combat sexual harassment and commit to a discrimination-free work environment.

PLEASE TAKE FURTHER NOTICE that on the 17th day of April, 2019 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.

PLEASE TAKE FURTHER NOTICE that this Notice represents only a summary of the proposed amendments to the Code of the Town of Batavia. A complete copy of the Local Law is on file at the office of the Batavia Town Clerk, 3833 West Main Street Road, Batavia, New York, and is open for public inspection during regular office hours.

Dated: Batavia, New York
March 20, 2019

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

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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. 2 of the year 2019.

A local law known as Local Law to Adopt Sexual Harassment Policy for the Town of Batavia, New York
(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 I. TITLE AND AUTHORITY

This local law is entitled "A Local Law to Adopt Sexual Harassment Policy for 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. ADOPTION OF SEXUAL HARASSMENT POLICY

The Town of Batavia hereby adopts the following Sexual Harassment Policy, to wit:

**TOWN OF BATAVIA
COMBATting SEXUAL HARASSMENT POLICY**

Introduction

Town of Batavia is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the Town of Batavia's commitment to a discrimination-free work environment. Sexual harassment is against the law¹ and all

¹ While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

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employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with Town of Batavia. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

Policy:

1. Town of Batavia's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with Town of Batavia in the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. Town of Batavia will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of Town of Batavia who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees² working in the workplace who believe they have been subject to such retaliation should inform a Department Head, Town Supervisor or Secretary to the Supervisor. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject Town of Batavia to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. Town of Batavia will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Town of Batavia will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

² A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

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6. All employees are encouraged to report any harassment or behaviors that violate this policy. Town of Batavia will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Town Supervisor or Secretary to the Supervisor.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient’s job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of sexual harassment

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The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

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Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone’s responsibility. Town of Batavia cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a Department Head, Town Supervisor or Secretary to the Supervisor. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a Department Head, Town Supervisor or Secretary to the Supervisor.

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Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

All Department Heads who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to the Town Supervisor or Secretary to the Supervisor.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Department Heads will also be subject to discipline for engaging in any retaliation.

Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Town of Batavia will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, Town Supervisor will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the

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individual to complete the “Complaint Form” in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.

- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections And External Remedies

Sexual harassment is not only prohibited by Town of Batavia but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at Town of Batavia, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid

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interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to Town of Batavia does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has

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district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

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.)

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

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2019, of the (~~County~~) (~~City~~) (Town) (~~Village~~) of Batavia, New York was duly passed by the Town Board on _____, in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the

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~~(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.)

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

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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: _____, 2019

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

STATE OF NEW YORK
COUNTY OF GENESEE

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

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

Date: _____, 2019

TOWN OF BATAVIA
SEXUAL HARASSMENT COMPLAINT FORM

New York State Labor Law requires all employers, including the Town, to adopt a sexual harassment prevention policy that includes a complaint form for employees to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to your Department Head, Secretary to the Supervisor, or Town Supervisor. Once

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you submit this form, the Town must follow its sexual harassment prevention policy and investigate any claims.

If you are more comfortable reporting verbally or in another manner, the Town is still required to follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

For additional resources, visit: ny.gov/combating-sexual-harassment.

Complainant Information

Name:

Home address:

Work address:

Home phone:

Work phone:

Job title:

Email:

Please indicate your preferred communication method:_____.

Supervisory Information

Immediate Supervisor's Name:

Title:

Work phone:

Work address:

Complaint Information

1. The Complaint of sexual harassment is made against:

Name:

Title:

Work address:

Work phone:

Relationship to you: ☐ Supervisor ☐ Subordinate ☐ Co-worker ☐ Other (_____)

2. Please describe the conduct or incident(s) that is the basis of this complaint and your reasons for concluding that the conduct is sexual harassment. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual harassment occurred:

Is the sexual harassment continuing? ☐ Yes ☐ No

4. Please list the name and contact information of any witnesses or individuals that may have information related to your complaint:

Answering question 5 is optional, however, in order to completely investigate the claim your complete response is valuable.

5. Have you previously complained or provided information (verbal or written) about sexual harassment at The Town? if yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

I request that the Town investigate this complaint of sexual harassment in a timely and confidential manner as outlined below, and advise me of the results of the investigation.

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Signature: _____ Date: _____

Instructions for Employers

If you receive a complaint about alleged sexual harassment, you must follow your sexual harassment prevention policy by investigating the allegations through actions such as:

- Speaking with the employee
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

You should create a written document of the findings of the investigation, along with any corrective actions taken and notify the employee and the individual(s) against whom the complaint was made. This may be done via email.

**TOWN OF BATAVIA
Acknowledgement form –Sexual Harassment Policy**

Town of Batavia is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace.

I acknowledge that I have received the Town's Sexual Harassment Policy and Complaint Form. I understand that if I have any questions regarding this policy or the use of the complaint form, I should contact my Department Head, Secretary to the Supervisor or Town Supervisor.

Employee's Name (printed): _____
Employee's Signature: _____
Employee's Department: _____
Date: _____

RESOLUTION NO. 64:

Councilman Zambito offered the following:

UNITED WAY DAY OF CARING

RESOLVED, the Batavia Town Board hereby authorizes a team of five employees (Steven Mountain, Teresa Morasco, Jason Armbruster, Daniel Lang, and Marcy Crandall) from the Town of Batavia to participate in the United Way Day of Caring, Wednesday, May 22, 2019.

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

RESOLUTION NO. 65:

Councilwoman White offered the following:

**CODE ENFORCEMENT OFFICER FIFTH AMENDED AGREEMENT BETWEEN
THE TOWN OF BATAVIA AND THE VILLAGE OF ALEXANDER**

WHEREAS, the Town of Batavia and the Village of Alexander wish to enter into a Code Enforcement Officer Agreement; and

WHEREAS, the agreement addresses the need for the Village of Alexander to have its Codes enforced by the Town of Batavia Code Officials.

NOW, THEREFORE, BE IT

RESOLVED, pursuant to Article 5-G of the General Municipal Law, the Batavia Town Board wishes to enter into a Code Enforcement Officer Fifth Amended Agreement between the Town of Batavia and the Village of Alexander for Code Enforcement services, a copy of which is annexed hereto and made a part of the minutes; and be it

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

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

FIFTH AMENDED
CODE ENFORCEMENT
AGREEMENT

THIS AGREEMENT, made this _____ day of _____, _____ by and between the **Village of Alexander**, a municipal corporation with offices at 3350 Church Street, Alexander, New York 14005 ("Alexander"), and the **Town of Batavia**, a municipal corporation with office at 3833 West Main Road, Batavia, NY 14020 ("Batavia"),

WHEREAS, pursuant to article 5-G of the General Municipal Law, Alexander and Batavia are authorized to enter into an inter-municipal cooperative agreement for the provision of Code Enforcement services, and

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WHEREAS, Batavia employs fully qualified Code Enforcement Officers to enforce Zoning Code, Fire and Building Codes and other various codes and regulations, and

WHEREAS, Alexander has identified a need to have its Codes enforced by Batavia, and

WHEREAS, Batavia intends to continue to maintain the position of Code Enforcement Officer and to provide Code Enforcement Duties in both the Town of Batavia and the Village of Alexander.

NOW THEREFORE, BE IT, RESOLVED, pursuant to Article 5-G of the General Municipal Law, it is agreed as follows:

First: That Alexander shall appoint the Code Enforcement Officers of the Town of Batavia as its Code Enforcement Officers.

Second: In consideration for compensation for the services set forth herein, Alexander shall pay Batavia \$4,606.00 per year of this agreement. The sum shall be paid during the 2019 budget year to provide services for the year of 2019.

Third: The services that will be provided will be to administer the adopted NYS Building Codes, Village of Alexander Zoning Code.

Fourth: Services provided will be on call and available during business hours of Monday thru Friday work week from 9am- 3pm.

Fifth: The Code Officer shall for all purposes be deemed an employee of Batavia. The Code Officer shall not in any way be construed as an employee of Alexander. Batavia shall pay the Code Officers salary and make employer's contributions for retirement, social security, health insurance, worker's compensation, unemployment and other similar benefit.

Sixth: This agreement does not include attorney services and Alexander shall provide and pay for all attorney services and expenses in its jurisdiction.

Seventh: This agreement shall become effective on April 1, 2019 and expire on March 31, 2020 with an option for either municipality to terminate this agreement upon a ninety (90) day written notice to the other municipality.

Eighth: There are no other agreements or understandings, either oral or written, between the parties affecting this agreement. No changes, additions or deletions of any portions of this agreement shall be valid or binding upon the parties hereto unless the same is approved in writing by the parties.

IN WITNESS WHEREOF, the Towns have caused this Agreement to be signed by the Supervisors and the Town Seal attached on the date first set forth above.

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Village of Alexander

TOWN OF BATAVIA

William Wagner, Mayor

Gregory H. Post, Supervisor

**STATE OF NEW YORK)
COUNTY OF GENESEE) SS.**

On the _____ day of _____, 201____ before me, the undersigned, a Notary Public in and for said State, personally appeared **William Wagner**, 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 the _____ day of _____, 20__ before me, the undersigned, a Notary Public in and for said State, 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

RESOLUTION NO. 66:

Deputy Supervisor Underhill offered the following:

**RESOLUTION OPPOSING SENATE BILL 1947 AND ASSEMBLY BILL 1261-
EXPANDING THE DEFINITION OF “PUBLIC WORKS”**

WHEREAS, the Town of Batavia supports the continued growth of business expansion, retention and attraction; and investments into workforce development, housing and healthy living projects, and

WHEREAS, Genesee County has used financial incentives to secure significant private sector investments amid competitive site selection searches; to allow Genesee County businesses to pursue projects expanding their workforce, production, and facilities; and to overcome competitive disadvantages from New York State’s expensive business climate, and

WHEREAS, such public-private partnerships are necessary to enable revitalization of our

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downtowns, expand markets for agricultural products, create rewarding career pathways for our existing workforce and youth, and fulfill the delivery of transformational projects at the WNY STAMP campus in the town of Alabama, and

WHEREAS, projects assisted by the Genesee County Economic Development Center have returned a significant benefit to Genesee County, enabling pledges of \$33 million in capital investment, 99 new jobs, and construction of over 189,000 square feet of facilities in 2018; and over the past 17 years have enabled \$1.3 billion in capital investment, over 4,500 new jobs, and new construction and renovations totaling over 3.5 million square feet of facilities, and

WHEREAS, legislation is currently under consideration by the State Senate of New York and the State Assembly of New York which redefines public works projects to include private sector projects; and would impose prevailing wage requirements on all private sector investments receiving any incentives, grants, loans or assistance from Genesee County or the State of New York; including those to expand manufacturing, affordable and market rate housing, downtown revitalization, historic preservation and projects undertaken by non-profit organizations, and

WHEREAS, studies have projected a prevailing wage mandate would increase project costs by an additional 25 to 30 percent, resulting in fewer projects, fewer new jobs, and fewer investments into community needs in Genesee County; and past use of prevailing wage requirements in Ulster County and the City of Yonkers arrested economic development in those communities.

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Batavia Town Board reaffirms its support for the continued growth of Genesee County's economy and quality of life, and goes on record opposing Senate Bill 1947 and Assembly Bill 1261; and be it further

RESOLVED, that the Town Clerk of the Town of Batavia shall forward certified copies of this Resolution to the Governor Andrew Cuomo, Budget Director Robert Mujica, Counselor to the Governor Alphonso David, Senate Majority Leader Andrea Stewart-Cousins, Deputy Majority Leader Michael Gianaris, Senator Mike Ranzenhofer, Assembly Speaker Carl Heastie, Assembly Majority Leader Crystal Peoples Stokes, and Assemblyman Stephen Hawley.

Second by: Councilwoman White

Ayes: Underhill, White, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 67:

Supervisor Post offered the following:

**PURCHASE NEW VEHICLE FOR
TOWN HIGHWAY DEPARTMENT**

WHEREAS, the 2019 Town Budget reflects appropriations to purchase a new vehicle for the

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Highway Department; and

WHEREAS, the Town solicited bids for a new 2019 F250 pickup truck via the NYSOGS mini bid process under NYS contract PC 67318, Award#22898, mini bid #19030003. Five (5) bids were received on the truck. The low bidder was NYE Automotive Group, 1479 Genesee Street, Oneida NY 13421 at a price of \$30,365.67; and

WHEREAS, the current 2017 Ford F250 pickup truck (VIN# 1FT7X2B67HED53552) will be sold at auction and the money from the sale of this vehicle will be used to purchase the new vehicle.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase of a new 2019 Ford F250 Pickup Truck from NYE Automotive Group at a price of \$30,365.67 and hereby declares the 2017 Ford F250 Pickup Truck (VIN# 1FT7X2B67HED53552) surplus and authorizes the Highway Superintendent to sell it at auction, and be it

FURTHER RESOLVED, the expenditure will be appropriated from the Highway equipment account DA5130.200.

Second by: Deputy Supervisor Underhill

Ayes: Post, Underhill, Michalak, Zambito, White

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 68:

Councilwoman Michalak offered the following:

ELLICOTT TRAIL PROJECT
CSX BRIDGE INSPECTION AGREEMENT
CSX TRANSPORTATION INCORPORATED

WHEREAS, the Town of Batavia will be constructing the Ellicott Trail Project which consists of construction of a 4.8 mile pedestrian and bicycle trail through the Town and City of Batavia. The project includes the rehabilitation of the of the existing bridge over the CSX railroad; and

WHEREAS, CSX requires that any construction on the bridge over the CSX railroad be monitored and inspected by CSX staff. CSX provided the attached quote and inspection agreement in the amount of \$86,626; and

WHEREAS, the Assistant Town Engineer reviewed and recommends the Town enter into the CSX Inspection Agreement with CSX Transportation, Incorporated.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the CSX

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Inspection Agreement, a copy of which is annexed hereto and made a part of the minutes, with CSX Transportation, Incorporated to complete the construction of the proposed rehabilitation of the CSX railroad bridge on the Ellicott Trail Project in the amount of \$86,626.

Second by: Councilman Zambito

Ayes: Michalak, Zambito, White, Underhill, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 69:

Councilman Zambito offered the following:

ELLCOTT TRAIL PROJECT
CONSTRUCTION QUALITY ASSURANCE
RAVI ENGINEERING AND LAND SURVEYING, P.C.

WHEREAS, the Town of Batavia will be constructing the Ellicott Trail Project which consists of construction of a 4.8 mile pedestrian and bicycle trail through the Town and City of Batavia; and

WHEREAS, the Town of Batavia received funding for the project from the New York State Department of Transportation (NYSDOT). NYSDOT requires that the Town enter into a construction quality assurance agreement with a reputable company to review the project construction and assure that NYSDOT standard are being met and inspections are being completed; and

WHEREAS, Ravi Engineering and Land Surveying, P.C. provided the attached quote and agreement for construction quality assurance in the amount of \$20,398.98; and

WHEREAS, the Assistant Town Engineer reviewed and recommends the Town enter into the quality assurance agreement with Ravi Engineering and Land Surveying, P.C.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the Construction Quality Assurance Agreement, a copy of which is annexed hereto and made a part of the minutes, with Ravi Engineering and Land Surveying, P.C. to complete the construction quality assurance agreement on the Ellicott Trail Project in the amount of \$20,398.98.

Second by: Councilwoman Michalak

Ayes: Zambito, Michalak, White, Underhill, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 70:

Councilwoman White offered the following:

ELLCOTT TRAIL PROJECT
MATERIAL TESTING AGREEMENT

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CME ASSOCIATES INCORPORATED

WHEREAS, the Town of Batavia will be constructing the Ellicott Trail Project which consists of construction of a 4.8 mile pedestrian and bicycle trail through the Town and City of Batavia; and

WHEREAS, the Town of Batavia received funding for the project from the New York State Department of Transportation (NYSDOT). NYSDOT requires that the Town enter into a material testing agreement with a reputable company to test the materials that the contractor provides for the project to assure that NYSDOT standards are being met; and

WHEREAS, the Assistant Town Engineer solicited for bids and received four (4) bids. CME Associates, Incorporated was the lowest bidder at an estimated cost of \$2,270.00 (bid summary and agreement attached); and

WHEREAS, since the actual amount of testing required cannot be determined until the time of construction, the Assistant Town Engineer recommends entering into an agreement with CME Associates, Incorporated for a not to exceed budget amount of \$4,000.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the Material Testing Agreement, a copy of which is annexed hereto and made a part of the minutes, with CME Associates, Incorporated, to complete the construction material testing on the Ellicott Trail Project at a not to exceed budget cost of \$4,000.

Second by: Deputy Supervisor Underhill

Ayes: White, Underhill, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 71:

Deputy Supervisor Underhill offered the following:

PURCHASE NEW VEHICLES FOR
TOWN BUILDING AND ZONING DEPARTMENT

WHEREAS, the 2019 Town Budget reflects appropriations to purchase two new vehicles for the Building and Zoning Department; and

WHEREAS, the Town solicited bids for two new 2019 Chevy Colorado pickup trucks via the NYSOGS mini bid process under NYS contract PC66687, Award #22898, mini bid #19030004. Two (2) bids were received on the trucks. The low bidder was Van Bortle Chevrolet, 1338 W. Main St. Macedon, NY 14502 at a price of \$28,106.44 each for a total bid of \$56,212.88 and adding remote starters to each vehicle at a cost of \$650.00 each for a total cost of \$56,862.88; and

WHEREAS, the two current 2017 Ford F150 pickup trucks

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(VIN#1FTFX1EF5HFB82438 and 1FTFX1EF5HFB82439) will be sold at auction and the money from the sale of these vehicles will be used to purchase the new vehicles.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the purchase of two new 2019 Chevy Colorado pickup trucks each with remote starters from Van Bortle Chevrolet for a total cost of \$56,862.88 and hereby authorizes the Highway Superintendent to sell the two 2017 Ford F150 pickup trucks (VIN#1FTFX1EF5HFB82438 and 1FTFX1EF5HFB82439) at auction, and be it

FURTHER RESOLVED, the expenditures will be appropriated from the Building and Zoning equipment account A3620.200.

Second by: Councilwoman Michalak

Ayes: Underhill, Michalak, Zambito, White, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 72:

Supervisor Post offered the following:

**BIGELOW CREEK HEADWATERS
CLIMATE SMART COMMUNITY PROJECT
CC ENVIRONMENT AND PLANNING
PROFESSIONAL SERVICES AGREEMENT**

WHEREAS, the Town of Batavia received \$255,172.00 in funding for the Bigelow Creek Headwaters Climate Smart Community project from the New York State Department of Environmental Conservation (NYSDEC), Contract C00785. To assist with the environmental permitting and design and to assure conformance with the Town's Green Genesee Action Plan goals and objectives the Town would like to enter into an agreement with a reputable company to provide environmental design, permitting and grant administration services related to the project; and

WHEREAS, CC Environment and Planning provided the attached proposal and agreement for providing the required services in the amount of \$19,556.00 on a not-to-exceed, time and expense basis; and

WHEREAS, the Town Engineer reviewed and recommends the Town enter into the services agreement with CC Environment and Planning.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the Services Agreement, a copy of which is annexed hereto and made a part of the minutes, with CC Environment and Planning on the Bigelow Creek Headwaters Climate Smart Community Project in the amount of \$19,556.00 on a not-to-exceed time and expense basis.

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Second by: Councilwoman White
Ayes: Zambito, White, Underhill, Michalak
Abstain: Post
APPROVED (4-ayes, 1-Abstain)

RESOLUTION NO. 73:

Councilwoman Michalak offered the following:

**PROPOSAL FOR PROFESSIONAL SERVICES BETWEEN THE TOWN OF BATAVIA AND
CIURZYNSKI CONSULTING, LLC
TOWN HALL EXPANSION PROJECT**

WHEREAS, the Town of Batavia is considering an addition, expansion to the Town Hall; and

WHEREAS, Ciurzynski Consulting, LLC submitted a proposal agreement for the pre-construction planning services at a cost of \$15,000.00.

NOW THEREFORE BE IT

RESOLVED, the Batavia Town Board hereby approves the proposal agreement with Ciurzynski Consulting, LLC, a copy of which is annexed hereto and made a part of the minutes, for pre-construction planning services for an addition, expansion to the Town Hall at a cost of \$15,000.00, be it further

RESOLVED, the Supervisor is hereby authorized to execute the proposal agreement; and be it further

RESOLVED, the expenditure will be from line item A1620.404.

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

RESOLUTION NO. 74:

Councilman Zambito offered the following:

**MITEL/INTER-TEL 5000 TELECOMMUNICATION SYSTEM
SOFTWARE ASSURANCE PACKAGE**

WHEREAS, Rel-Comm, Inc. installed the Mitel CS 5000 telecommunications system upgrade in the Town Hall and Highway Facility in 2009, which also included enrollment in the Software Assurance Program; and

WHEREAS, the Software Assurance Coverage expires May 16, 2019; and

WHEREAS, Software Assurance coverage is required for technical support and/or upgrades.

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The cost for one (1) year coverage is \$360.00 (proposal quote attached).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board authorizes a one (1) year Software Assurance Coverage with RelComm, Incorporated at a cost of \$360.00 for the Mitel 5000 Telecommunication System; and be it

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

Second by: Deputy Supervisor Underhill

Ayes: Zambito, Underhill, Michalak, White, Post

APPROVED by unanimous vote (5-0)

SUSPEND THE RULES-Motion Deputy Supervisor Underhill, second Councilwoman Michalak to suspend the rules to introduce an additional resolution.

Ayes: Underhill, Michalak, Zambito, White, Post

MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 75:

Councilwoman White offered the following:

FINANCIAL SERVICES AGREEMENT
KINGS PLAZA SEWER PUMP STATION PROJECT
MUNICIPAL SOLUTIONS, INCORPORATED

WHEREAS, the Town of Batavia requested a proposal of services from Municipal Solutions for assistance with borrowing and fiscal services for the Kings Plaza Sewer Pump Station Project and

WHEREAS, Municipal Solutions, Incorporated submitted a proposal of services agreement (agreement proposal attached).

NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Batavia, New York, that a proposed Financial Services Agreement by and between the Town of Batavia and Municipal Solutions, Incorporated for the Kings Plaza Sewer Pump Station Project for Bond Anticipation Note Borrowings, Fiscal Services, Conflicts of Interest and Other Required Disclosures, a copy of which is annexed hereto and made a part of the Town Board Minutes, is hereby approved, and the Town Supervisor is hereby authorized and directed to sign this Agreement on behalf of the Town of Batavia.

Second by: Councilwoman Michalak

Ayes: White, Michalak, Zambito, Underhill, Post

APPROVED by unanimous vote (5-0)

Abstract No. 3-2019: Motion Deputy Supervisor Underhill, second Councilman Zambito to authorize the

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Supervisor to pay the following vouchers:

General	\$75,321.60
Highway	30,852.68
Sewer No. 1	5,156.19
Sewer No. 2	9,801.10
Water	44,735.11
Kings Pump	117.00
Southwest	949.00
Ellicott Trail	87,264.00
Townline	192.00
Total	\$254,388.68

Check numbers 21919 -21942, 21944 -21987, SM: 1119, ACH: \$33,316.87, Online: \$12,509.58

Ayes: Underhill, White, Michalak, Zambito, Post

MOTION CARRIED by unanimous vote (5-0)

DEPARTMENT REPORTS:

The Town Supervisor reported for the following departments:

Building –

- Continues work and inspections with open projects

Historian- Read Historians report (attached)

Water/Wastewater –

- Continued maintenance and serving five Towns

Highway-

- Working on roads and equipment maintenance
- Clearing brush and cleaning ditches

Supervisor's Report:

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

GAM -There will be a GAM meeting tomorrow evening at Genesee County Building 2, hosted by the Town of Darien.

COMMUNICATIONS:

The Town Clerk reported on the following:

February Town Clerk monthly report collected a total of \$9,505.55, remitted \$9,395.59 to the Supervisor for the Local Share.

February Tax Collection- Collected \$180,303.41, remitted \$1,783.56 to the Supervisor for the penalties collected and the remainder was remitted to the Genesee County Treasurer.

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Trainings- Erie County is sponsoring a local planning Agriculture Training in East Aurora on April 3, and the GFLRPC Spring Local Government Workshop on May 17, 2019. Town Officials have been notified of these trainings.

Electronic Collections – Sponsored by State Legislators (was) March 16 in West Seneca and on April 6 in Henrietta.

Records Management- Tuesday, March 19 the Town Clerk Department met with the Building and Water/Wastewater Departments to create an electronic management application for backflow and street files to eliminate the paper documents.

ADJOURNMENT:

Motion Deputy Supervisor Underhill, second Councilwoman Michalak to adjourn the Regular Town Board Meeting at 7:37 P.M.

Ayes: Underhill, Zambito, White, Michalak, Post

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk