

NOVEMBER 18, 2020
REGULAR TOWN BOARD MEETING
VIA ZOOM CONFERENCING
Meeting ID: 943 3939 1871
Password: 310551

7:00 P.M.

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

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

Roll Call

Present: Deputy Supervisor Underhill
Councilwoman White
Councilwoman Michalak
Councilman Zambito

Absent: Supervisor Post

Others

Present: Town Clerk Morasco
Alecia Kaus, Video News Reporter

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

October 21, 2020 Public Hearing-Local Law 3 of 2020-Override Tax Cap and October 21, 2020

Regular Town Board Meeting: Motion Councilwoman Michalak, second Councilwoman Zambito to approve the minutes as written.

Ayes: Michalak, Zambito, White, Underhill

MOTION CARRIED by unanimous vote (4-0)

November 4, 2020 Special Town Board Meeting, November 4, 2020 Public Hearing-Sewer Rates, November 4, 2020 Public Hearing-Water Rates, and November 4, 2020 Public Hearing-2021 Town

Budget: Motion Councilman Zambito, second Councilwoman White to approve the minutes as written.

Ayes: Zambito, White, Michalak, Underhill

MOTION CARRIED by unanimous vote (4-0)

RESOLUTION NO. 164:

Councilwoman White offered the following:

TOWN OF BATAVIA SEWER RATES – 2021

WHEREAS, pursuant to General Municipal Law Section 452 as amended, impositions of sewer rates in Sewer Districts No. 1 and No. 2 in the Town of Batavia are subject to approval by the Batavia

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Town Board;

WHEREAS, these sewer rates are imposed to pay for the cost of wastewater treatment and operation and maintenance of the sewer lines;

WHEREAS, in Sewer District No. 1 the sewer rates for 2021 has been set at seven dollars and nine cents (\$7.09) per 1000 gallons;

WHEREAS, in Sewer District No. 2 the sewer rates for 2021 has been set at seven dollars and nine cents (\$7.09) per 1000 gallons;

WHEREAS, as required by law and in conjunction with the public hearing held November 4, 2020 for the 2021 Town Budget, these rates were entered in and made a part of the record.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes and sets the aforementioned sewer rates in Sewer Districts No. 1 and No. 2 for one (1) year beginning January 1, 2021; and be it further

RESOLVED, the sewer rates are to be paid quarterly in the months of May, August and November, 2021 and February, 2022.

Second by: Councilwoman Michalak

Ayes: White, Michalak, Zambito, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 165:

Deputy Supervisor Underhill offered the following:

TOWN OF BATAVIA WATER RATES – 2021

WHEREAS, pursuant to the Code of the Town, Section 229-15, the Town Board shall by resolution establish and from time to time modify the water rate for all water sold by the Town of Batavia; and

WHEREAS, as a courtesy to the consumers, the Town Board held a public hearing on November 4, 2020 for the establishment of the 2021 water rates; and

WHEREAS, the base water rate for May 2021 to February 2022 is set at six dollars and twenty cents (\$6.20) per 1,000 gallons; and

WHEREAS, the agricultural water rate for May 2021 to February 2022 is set at five dollars and

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two cents (\$5.02) per 1,000 gallons; and

WHEREAS, the base rate applies to all meters that are not dedicated to use within farming operations; and

WHEREAS, the agricultural rate applies to all meters serving parcels in a Certified Agricultural District and dedicated to use in farming operations, including providing drinking water for livestock, irrigation of crops, and operations related directly to agriculture. This rate does not apply to meters that also serve domestic, commercial, or industrial uses, and

WHEREAS, the formula for the Base Rate is
100% of the water purchase cost
100% of the Genesee County water surcharge cost
100% of the Town's debt reserve cost
100% of the Town's Operation and Maintenance cost

WHEREAS, the formula for the new Agricultural Rate is
100% of the water purchase cost
100% of the Genesee County water surcharge cost
100% of the Town's debt reserve cost
10% of the Town's Operation and Maintenance cost

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes and sets the aforementioned base water rate and agricultural water rate for one (1) year beginning January 1, 2021, and be it further

RESOLVED, the water usage is to be billed quarterly and are to be paid quarterly in the months of May, August and November, 2021 and February, 2022.

Second by: Councilwoman White

Ayes: Underhill, White, Michalak, Zambito

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 166:

Councilwoman Michalak offered the following:

ADOPTION OF 2021 TOWN ANNUAL BUDGET

WHEREAS, the Town of Batavia Chief Fiscal Officer prepared a Tentative Budget for review by the Batavia Town Board, and

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WHEREAS, the Town Board met in Budget sessions among themselves and with Town Employees in the formulation of the Preliminary Budget; and

WHEREAS, the 2021 Preliminary Budget was adopted on October 21, 2020 and after which a Public Hearing was held on November 4, 2020 for all interested parties to be heard.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby adopts the October 21, 2020 Preliminary Town Budget as the 2021 Annual Budget of the Town of Batavia.

Second by: Councilman Zambito

Ayes: Michalak, Zambito, White, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 167:

Councilman Zambito offered the following:

TOWN INSURANCE AWARD

WHEREAS, as of November 27, 2001 the Batavia Town Board retained New York Municipal Insurance Reciprocal to provide the Town with insurance coverage; and

WHEREAS, the Insurance Premium for 2021 (November 27, 2020 through November 27, 2021) has been quoted at seventy-seven thousand, three hundred, sixty-nine dollars and eighty-eight cents (\$77,369.88), which includes the Cyber Coverage (quote attached).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby retains New York Municipal Insurance Reciprocal to provide insurance coverage for the Town in the amount seventy-seven thousand, three hundred, sixty-nine dollars and eighty-eight cents (\$77,369.88), copies of which are annexed hereto and made a part of the minutes; and be it further

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute any documents necessary for the award.

Second by: Councilwoman Michalak

Ayes: Zambito, Michalak, White, Underhill

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 168:

Councilwoman White offered the following:

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EXCESS EMPLOYER'S LIABILITY INSURANCE

RESOLVED, the Batavia Town Board hereby retains Franz-Manno Service Corporation to provide the Town's Excess Employer's Liability Insurance at a cost of One Thousand One Hundred Eleven Dollars, (\$1,111.00).

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

RESOLUTION NO. 169:

Deputy Supervisor Underhill offered the following:

TRAINING WORKSHOP

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

Sharon White-NYS Office of State Comptroller webinar on "Conflict of Interests and Ethics for Municipal Officers and Employees" (was) November 5, 2020. There was not cost for this webinar.

Sarah Sauka- Notary Test in Rochester, New York (was) November 17, 2020. The cost for this was \$15.00.

Sarah Sauka and Teresa Morasco- NYS Town Clerk Association various educational webinars, November through December 3, 2020. There are no costs for these webinars.

Hiedi Librock and Teresa Morasco- Chamber of Commerce Annual Meeting November 19, 2020. There is not cost for this webinar.

Marcy Crandall- Kennedy Fire Hydrant Training (was) November 12, 2020. There was not cost for this training.

Marcy Crandall- WNY Coatings and Corrosion Expos 2021 March 10, 2021 in Buffalo. There is not cost for this training.

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

RESOLUTION NO. 170:

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Councilwoman Michalak offered the following:

ORDER CALLING A PUBLIC HEARING
ON THE 2021 FIRE DEPARTMENT CONTRACT

RESOLVED, that this Town Board hereby schedules a public hearing on the advisability of contracting with the Town of Batavia Fire Department, Inc. for fire protection to be provided to the Town of Batavia Fire Protection District by the Town of Batavia Fire Department, Inc., and that not less than ten (10) days notice of said hearing be published in the Daily News and posted on the signboard of the Town; and be it

FURTHER RESOLVED, that said hearing be scheduled for December 16, 2020 at 7:00 o'clock p.m. and will be held electronically via ZOOM video conference/call conference.

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

NOTICE FOR PUBLIC HEARING ON
FIRE PROTECTION CONTRACT FOR 2021

Public Notice is hereby given, that a Public Hearing will be held Wednesday, December 16, 2020 by the Town Board of the Town of Batavia, Genesee County, New York, at 7:00 P.M. of that day via ZOOM video conference/call conference and for the purpose of considering contracting with the Town of Batavia Fire Department, Inc. for fire protection services to be furnished by the Town of Batavia Fire Department, Inc to the Fire Department District established in the Town of Batavia and known as the "Town of Batavia Fire Protection District" upon the following general terms, to wit:

1. The Town of Batavia Fire Department, Inc. shall answer and attend upon all calls in said District;
2. The Town of Batavia Fire Department Inc., shall purchase and maintain such property, crime, dishonesty bond and liability insurance as it deems prudent to protect its interests. Such insurance shall include Automobile Liability, General Liability naming the Town of Batavia, its agents and employees as Additional Insureds, Contractual Liability for this Contract and should include Ambulance Attendants Professional Liability, Volunteer Fire Department Errors and Omissions Liability and Liquor Law Liability coverages. Liability limits of at least \$1,000,000.00 each occurrence, claim or incident are recommended but not required. A Certificate of all liability insurances, providing the Town with at least 30 days written notice of cancellation or nonrenewable, shall be furnished to the Town Attorney, Town Hall, 3833 West Main Street Road, Batavia, New York, 14020.

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The Town of Batavia Fire Department, Inc. shall also indemnify and hold harmless the Town of Batavia, its agents and employees from all claims, suits, loss, damages, injuries, liability, cost and expenses arising from the services provided for in this contract and from the activities of the Fire District, its officers, employees and volunteers to the extent this provision is insured by the Town of Batavia Fire District.

3. The Town of Batavia Fire Department, Inc. shall maintain public liability and property damage insurance policies for the benefit of said District and the Town of Batavia, and shall hold said District and Town harmless for losses not covered by insurance;
4. The Town of Batavia Fire Department, Inc. shall be responsible for loss or damage sustained in fire apparatus or other equipment while attending fires in said District;
5. The Town of Batavia and the Town of Batavia Fire Protection District shall pay or provide insurance coverage for authorized items;
6. The Town of Batavia Fire Department, Inc. shall participate in the Genesee County Mutual Aid Plan and reserves certain rights pertaining to said participation;
7. The Town of Batavia Fire Department, Inc. shall reimburse the Town of Batavia should its equipment not be usable;
8. For such services the Town of Batavia Fire Department shall receive the yearly sum of one million, eighty-six thousand, five hundred, twenty-eight dollars (\$1,086,528.00).
9. The Town of Batavia shall plow and provide routine maintenance to the driveway and parking area of the Fire Department's Fire Hall;
10. The Town of Batavia Fire Department, Inc. shall provide financial data and records to the Town of Batavia.
11. The contract shall run for one (1) year from January 1, 2021 and shall expire on December 31, 2021

All persons interested in the matter will be heard at such time and place specified above.

Dated: November 18, 2020

Teresa M. Morasco
Town Clerk
Town of Batavia

TOWN OF BATAVIA FIRE DEPARTMENT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2020, by and between the **TOWN OF BATAVIA, NEW YORK**, (hereinafter designated as "Town") and the **TOWN OF BATAVIA FIRE DEPARTMENT, INC.** of Batavia, New York, (hereinafter designated as "Fire Department").

WITNESSETH:

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WHEREAS, there has been duly established in the said Town of Batavia a fire protection district known as the "Town of Batavia Fire Protection District" as such' territory is more fully described in the Resolution establishing such District and duly adopted by the Town Board of the said Town of Batavia, Genesee County, New York on 24th day of March, 1948; and

WHEREAS, following a public hearing duly called, the said Town has duly authorized a Contract with the Fire Department for fire protection in said District upon the terms and conditions herein set forth; and

WHEREAS, this Agreement has also been duly authorized by the Directors and membership of the Fire Department, and the Fire Department has provided to the Town certified copies of Resolutions of approval of this Agreement by the Town of Batavia Fire Department Board of Directors and by its membership.

NOW, THEREFORE, the Town does engage the Fire Department to furnish fire protection to said District and the Fire Department agrees to furnish such protection in the manner following, to wit:

1. The equipment and personnel of the Fire Department shall at all times during the term of this Agreement be subject to call for attendance upon any fire occurring in such District, and when notified by any means of a fire within the District, said Fire Department shall respond and attend upon the fire without delay with one or more companies and with suitable fire-fighting equipment and apparatus of the Fire Department. Upon arriving at the scene of the fire, the firefighters of the Fire Department attending shall proceed diligently and in every way reasonably suggested under the circumstances to the extinguishments of the fire and the saving of life and property in connection therewith.

2. The Fire Department covenants and agrees at all times to maintain in force on and in respect to vehicles and equipment owned by it or subject to its control or use, while responding to, attending at or leaving from fires, alarms or calls both inside and outside said District, including, but not limited to, responses in connection with Mutual Aid Plan referred to in Paragraph 5 of this Agreement, an underlying public liability insurance policy for injury to persons and property, including wrongful death, with limits of \$500,000.00 for each person, \$1,000,000.00 for each accident and \$250,000.00 property damage for each accident and an excess public liability policy in the amount of \$3,000,000.00 insuring the Fire Department and the Town against any loss by reasons of personal injury including wrongful death, or property damage caused or contributed to by the negligent operation of said vehicles and/or equipment in connection with a fire, alarm or call in or from said District or in connection with a mutual aid response. In addition, the Fire Department agrees at all times to maintain in force public liability insurance to protect itself and the Town from all other losses occurring in its operations other than those arising out of the use and operation of said vehicles and/or equipment to persons for injury, including wrongful death, and to property in amounts for underlying and excess liability similar to that maintained for vehicles and/or equipment. All liability insurance policies must be obtained through insurance companies licensed to do business within the State of New York, must name the Town of Batavia as insured and must be maintained for the life of

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this Agreement.

The Fire Department shall deliver a copy of the policy of said insurance to the Town prior to the execution of this Agreement, covenants to pay the premiums thereon in timely fashion and to have said insurance policies provide for thirty (30) days written notice to the Town prior to cancellation. If the Fire Department shall fail to pay said premiums due hereunder in a timely fashion, the Town shall have the right to pay the same and to deduct the cost thereof from the amounts due the Fire Department under paragraph 7 of this Agreement.

In addition, the Fire Department hereby covenants and agrees to indemnify and hold the Town harmless from any and all losses and damages which the Town may sustain, suffer or be required to pay by reason of any claims made against said Town for injury to persons or property, including wrongful death, arising out of the performance of this agreement by the Fire Department to the extent that said losses and damages are not fully covered and paid by the insurance referred to herein.

3. Should any loss or damage whatsoever be sustained to the fire apparatus or other equipment, said loss or damage, including the cost of materials and any other special or incidental expenses incurred in the operation of the fire apparatus or equipment of the Fire Department in answering, attending upon or returning from a call for assistance in said Town of Batavia Fire Protection District, irrespective of the cause thereof, shall be a charge upon the Fire Department and not against the Town or against the Town of Batavia Fire Protection District. This fact is taken into consideration by both parties in arriving at the consideration to be paid to the Fire Department pursuant to this Agreement.

4. To the extent that the same is not otherwise provided for by the Genesee County Mutual Aid Plan, by the county of Genesee or by some other source, the Town of Batavia shall pay at its own expense or provide necessary insurance coverage at its expense for any and all claims authorized by law for medical expenses, loss of wages, compensation or other claims arising by reason of the injury or death of a fireman, or member of the Fire Department Emergency Relief Squad, a Fire Police Squad or a Fire Patrol sustained while answering or attending upon or returning from any such call in said District.

5. The Fire Department is hereby authorized by the Town to participate in the Genesee County Mutual Aid Plan and to answer calls for aid and assistance according to said Mutual Aid Plan and System. Nothing contained in this Agreement shall be deemed to prevent the Fire Department from securing reimbursement from any entities other than the Town and the Town of Batavia Fire Protection District for either any loss or damage to its fire apparatus, equipment or materials used for the locality that issues a call for aid or for payments to injured or deceased firemen as provided by any law of the State of New York.

6. In the event that the fire-fighting equipment owned by the Fire Department is in such condition that said Fire Department is unable to fulfill its obligations under this contract to answer or attend any fire occurring in said Town of Batavia Fire Protection District for a period of twenty-one (21) days or longer, the Fire Department covenants to reimburse the Town on a pro rata basis the sums provided to be paid to the Fire Department pursuant to this Agreement retroactive to the first day of said twenty-one (21) day period for the entire period of time during which it is unable to fulfill its obligations under this Agreement.

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7. A. The Town covenants and agrees to pay to the Fire Department in consideration for services to be performed pursuant to this Agreement the sum of One million, eighty-six thousand, five hundred, twenty-eight dollars (\$1,086,528.00).

B. The sums as stated in section A of this paragraph to be due and payable on the 1st day of March, 2021, upon presentation to the Town of a duly verified voucher therefore.

8. The Town covenants to provide snowplowing services for the parking and driveway area to the Fire Hall owned by the Fire Department, as well as routine maintenance of said parking lot and driveway area, both only to the extent that the Superintendent of Highways of the Town determines that said services can be provided. The Fire Department agrees to provide all materials and supplies for said maintenance services; acknowledges that said routine maintenance services shall be provided only during normal business hours of the Town of Batavia Highway Department and as other Town Highway Department functions permit. The Fire Department further acknowledges that said snowplowing services shall be provided only after the Town's Superintendent of Highways is satisfied that the highways of the Town of Batavia are reasonably free and clear of ice and snow and that men and machinery under his supervision and control are free to provide said services. The Fire Department hereby covenants to indemnify and to hold the Town harmless for any injury, loss or damage which the Fire Department or any other person, firm or corporation may suffer, sustain or be required to pay by reason of the Town not providing or failing to provide adequate snowplowing and/or maintenance services under the provisions of this Paragraph.

9. **On or before April 1, 2021**, the Fire Department will provide an independent, certified audit of the financial affairs of the Fire Department.

10. A. The Fire Department shall provide written notice to the Town of capital purchases as early as possible, but in no event not less than 30 days prior thereto; provided, however, that this provision shall not be construed as requiring or constituting any municipal approval or involvement in the corporate affairs of the Fire Department by the Town.

B. The Fire Department shall continue to exercise sound financial practices and planning, including maintenance of capital reserve accounts where feasible.

11. All moneys to be paid under any provision of this Agreement, as well as other payments which may be made from time to time according to applicable provisions of law which regulate the terms and provisions of this Agreement, shall be a charge upon the said Fire Protection District to be assessed and levied upon the taxable real property in said District and collected with the Town Taxes.

12. This Agreement shall become operative and effective from 12:01 a.m. January 1, 2021, and shall continue for a term of one (1) year which will expire at midnight on December 31, 2021.

13. It is understood and agreed that this contract is subject to the provisions of Section 184 of the Town

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Law of the State of New York.

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

TOWN BOARD OF THE TOWN OF BATAVIA

BY _____
GREGORY H. POST

(SEAL)

ATTEST:

TERESSA M. MORASCO, TOWN CLERK

TOWN OF BATAVIA FIRE DEPARTMENT, INC.

BY _____
SCOTT T. GARLOCK, PRESIDENT

(SEAL)

STATE OF NEW YORK)
COUNTY OF GENESEE) ss:

On the ____ day of _____, 2020, before me came GREGORY H. POST, to me known,

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who, being by me duly sworn, did depose and say that he resides at 8472 Seven Springs Road in the Town of Batavia, New York; and he is the Supervisor of the **TOWN OF BATAVIA, NEW YORK** the municipal corporation described in and who executed the foregoing Agreement; that he knows the seal of said Town; that it was affixed by order of the Town Board of said Town; and that he signed his name thereto by like order.

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF GENESEE) ss:

On the ___ day of _____, 2020, before me came Scott T. Garlock, to me known, who, being by me duly sworn, did depose and say that, he resides at 30 Dellinger Avenue, Batavia, New York; and he is the President of the **TOWN OF BATAVIA FIRE DEPARTMENT, INC.** the corporation described in and which executed the foregoing Agreement; that he knows the seal of said Corporation; that it was affixed by order of the Board of Directors of said Corporation; and that he signed his name thereto by like order.

NOTARY PUBLIC

RESOLUTION NO. 171:

Councilman Zambito offered the following:

**RESOLUTION TO APPROVE A SHARED SERVICES AGREEMENT
WITH THE NYS DEPARTMENT OF TRANSPORTATION**

WHEREAS, the New York State Department of Transportation (hereinafter referred to as “NYSDOT”), has an effective mechanism that allows the NYSDOT to provide emergency assistance to municipalities in the absence of a Governor’s Emergency Declaration; and

WHEREAS, a proposed Shared Services Agreement has been approved as to form and content by the Town Highway Superintendent and representatives of the NYSDOT.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that a proposed “Shared Services Agreement Between the New York State Department of

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Transportation and Town of Batavia” for emergency assistance, a copy of which is annexed and made part of the Town Board Minutes is hereby approved, and the Town Supervisor and Highway Superintendent are authorized and directed to execute this Shared Services Agreement on behalf of the Town, and

BE IT FURTHER RESOLVED that the Highway Superintendent and all other employees are authorized and directed to take all steps to perform all duties as are necessary to complete the responsibilities of the Town of Batavia pursuant to this Shared Services Agreement.

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

RESOLUTION NO. 172:

Councilwoman White offered the following:

**RESOLUTION TO APPROVE SUPPLEMENTAL AGREEMENT #1 FOR PARK ROAD
IMPROVEMENT PROJECT**

WHEREAS, the Town of Batavia and the New York State Department of Transportation entered into an agreement on December 16, 2009 for the Town to provide preliminary engineering design and Right of Way acquisition services for the improvements to Park Road between NYS Route 98 and NYS Route 63. As a result of the loss of construction funding for the project, the design was placed on hold. The construction funding has been reinstated therefore the design can now be completed. The Town and State need to amend the original agreement to complete the design; and

WHEREAS, the original completion date for the design stated in the agreement was November 17, 2018. The new completion for the design is December 31, 2021; and

WHEREAS, the original agreement for design was \$363,000.00. However, the scope of the project has been reduced so the agreement has been reduced accordingly to \$239,960.00. The federal Share (75%) has remained the same in the new agreement, however the State Marchiselli share (15%) has been added to reduce the local share to 5% of the design cost.

NOW, THEREFORE, BE IT RESOLVED, the Town Board does hereby authorize and approve Supplemental Agreement #1 with Schedules A and B and Appendix A annexed thereto, for the Park Road Improvement Project in the amount of \$239,960.00, and the Town will comply with all the terms and conditions therein, and it is further

RESOLVED, that the Town Board does hereby authorize initial payment of 100% of the Federal and Marchiselli share of the cost, with the sum of \$191,968.00 to be reimbursed by Federal Aid,

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\$35,994.00 reimbursed by State Marchiselli funds, leaving the sum of \$11,998.00 as the local share, and it is further

RESOLVED, that the aforesaid sum of 239,960.00 is hereby appropriated and made available to cover the cost of participation in the project set forth in the agreement, and it is further

RESOLVED, that in the event the full federal and non-federal share of the project exceeds the amount appropriated above, the Town Board shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the NYSDOT thereof, and it is further

RESOLVED, that the Town Supervisor is hereby authorized to execute the aforesaid Agreement and any and all other Agreements, certifications or documents needed for Federal-aid and/or Marchiselli- Aid, on behalf of the Town of Batavia with the NYSDOT in connection with the advancement or approval of the project, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by annexing it to any necessary Agreement in connection with the project, and it is further

RESOLVED, that this Resolution shall take effect immediately.

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

RESOLUTION NO. 173:

Deputy Supervisor Underhill offered the following:

**AUTHORIZATION TO ENTER INTO AGREEMENTS WITH NEW YORK STATE HOUSING
TRUST FUND CORPORATION AND GENESEE GATEWAY LOCAL DEVELOPMENT
CORPOATION FOR THE IMPLEMENTATION OF A COMMUNITY DEVELOPMENT
BLOCK GRANT
PROJECT #83ED956-20
UPSTATE NIAGARA COOPERATIVE, INCORPORATED**

WHEREAS, the Town of Batavia (“Town”) has received Federal grant assistance in the amount of seven hundred, fifty thousand dollars (\$750,000.00) (the “Grant”) from the New York State Housing Trust Fund Corporation (“HTFC”) represented by the New York State Office of Community Renewal (“OCR”) through the Community Development Block Grant (“CDBG”) Program (OCR Grant #83ED956-20) for the purpose of providing financing to assist Upstate Niagara Cooperative, Incorporated in reactivating the former Alpina Foods facility, including the construction of plant

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renovations and the acquisition of machinery and equipment needed to allow the Company to start production at the facility, Town of Batavia, New York; and

WHEREAS, a portion of the Grant proceeds is to be used to fund administrative and program delivery costs associated with the implementation of the Grant; and

WHEREAS, the Genesee Gateway Local Development Corporation (the “Corporation”) has the capacity to provide such financing and to administer the Grant in the best interests of the Town, and

WHEREAS, the Corporation is a not-for-profit corporation eligible to receive grants of CDBG funds pursuant to Section 105(a)(15) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. §5305),

NOW, THEREFORE BE IT

RESOLVED, that the Batavia Town Board hereby authorizes the Supervisor to execute the agreement between HTFC and the Town evidencing the Grant and all forms and documents related thereto, copy of which is annexed hereto and made a part of the minutes; and be it further

RESOLVED, that the Town hereby authorizes the Supervisor to enter into an agreement with the Corporation, a copy of which is annexed hereto and made a part of the minutes, for implementation and administration of the Grant under terms and conditions subject to review and approval by the Town Attorney.

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

RESOLUTION NO. 174:

Councilwoman Michalak offered the following:

**AUTHORIZATION TO ENTER INTO AGREEMENTS WITH NEW YORK STATE HOUSING
TRUST FUND CORPORATION AND GENESEE GATEWAY LOCAL DEVELOPMENT
CORPOATION FOR THE IMPLEMENTATION OF A COMMUNITY DEVELOPMENT
BLOCK GRANT
PROJECT #83ED957-20
HP HOOD, LLC**

WHEREAS, the Town of Batavia (“Town”) has received Federal grant assistance in the amount of seven hundred, fifty thousand dollars (\$750,000.00) (the “Grant”) from the New York State Housing Trust Fund Corporation (“HTFC”) represented by the New York State Office of Community Renewal

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(“OCR”) through the Community Development Block Grant (“CDBG”) Program (OCR Grant #83ED957-20) for the purpose of providing financing to assist HP Hood, LLC in installing a new filler line at its dairy processing plant in the Town of Batavia, New York; and

WHEREAS, a portion of the Grant proceeds is to be used to fund administrative and program delivery costs associated with the implementation of the Grant; and

WHEREAS, the Genesee Gateway Local Development Corporation (the “Corporation”) has the capacity to provide such financing and to administer the Grant in the best interests of the Town, and

WHEREAS, the Corporation is a not-for-profit corporation eligible to receive grants of CDBG funds pursuant to Section 105(a)(15) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. §5305),

NOW, THEREFORE BE IT

RESOLVED, that the Batavia Town Board hereby authorizes the Supervisor to execute the agreement between HTFC and the Town evidencing the Grant and all forms and documents related thereto, copy of which is annexed hereto and made a part of the minutes; and be it further

RESOLVED, that the Town hereby authorizes the Supervisor to enter into an agreement with the Corporation, a copy of which is annexed hereto and made a part of the minutes, for implementation and administration of the Grant under terms and conditions subject to review and approval by the Town Attorney.

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

RESOLUTION NO. 175:

Councilman Zambito offered the following:

APPOINTMENT TO TOWN JUSTICE TO FILL AN UNEXPIRED TERM

WHEREAS, Michael L. Cleveland, 2960 West Main Street Road, Batavia, New York, was re-elected as Town of Batavia Town Justice, commencing January 1, 2020, term expiring December 31, 2023; and

WHEREAS, Michael L. Cleveland submitted his resignation effective November 27, 2020, creating a vacancy.

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NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby appoints Andrew J. Young, 3689 Pike Road, Batavia, New York, as Town Justice for the Town of Batavia, term commencing November 27, 2020 and expiring December 31, 2021; and be it

FURTHER RESOLVED, the Batavia Town Board hereby sets the salary at \$1,076.92 per pay period.

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

RESOLUTION NO. 176:

Councilwoman White offered the following:

AMENDMENT #1 TO RESOLUTION 7 OF 2020
OFFICIAL UNDERTAKING OF MUNICIPAL OFFICIALS

WHEREAS, resolution 7 of 2020, entitled, “Official Undertaking of Municipal Officials was adopted January 8, 2020; and

WHEREAS, with the resignation of Town Justice Michael Cleveland, said resolution needs to be amended, adding Andrew J. Young, appointed Town Justice to the document entitled “Town of Batavia Official Undertaking of Municipal Officers”.

NOW, THEREFORE

BE IT RESOLVED that the Batavia Town Board hereby amends resolution 7 of 2020, entitled, “Official Undertaking of Municipal Officials”, adding Andrew J. Young Town Justice to the document entitled “Town of Batavia Official Undertaking of Municipal Officers”, a copy of which is annexed hereto and made a part of the minutes; and be it

FURTHER RESOLVED, that said Official Undertaking containing the notarized signature of the named municipal official be filed in the Office of the Town Clerk.

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

AMENDMENT #1
ADDITION
TOWN OF BATAVIA

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OFFICIAL UNDERTAKING OF MUNICIPAL OFFICERS

WHEREAS, Andrew Young, of the Town of Batavia, County of Genesee, New York, has been appointed to the Office of Town Justice of the Town of Batavia, and

NOW, THEREFORE, I as respective officer above, do hereby undertake with the Town of Batavia that I will faithfully perform and discharge the duties of my office, and will promptly account for and pay over all moneys or property received as a Town Officer, in accordance with the law or in default thereof, that the parties executing such undertaking will pay all damages, costs and expenses resulting from such default; and

This undertaking of the Town Justices further conditioned that he will well and truly keep, pay over and account for all moneys and property coming into is hands as such Town Justice.

Dated: November 18, 2020
Town of Batavia

Andrew J. Young
Town Justice

STATE OF NEW YORK:

:SS:

COUNTY OF GENESEE

On the _____ day of _____, 20 ____ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or provided 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/she executed the same in his/her capacity, and that by this 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

Abstract No. 11-2020: Motion Deputy Supervisor Underhill, second Councilman Zambito to authorize the Supervisor to pay the following vouchers:

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General	\$287,511.43
Highway	118,189.89
Sewer No. 1	11,840.15
Sewer No. 2	11,229.81
<u>Water</u>	719,615.33
Sewer Capacity Purchase	7,386.00
Agri-Business PS	1,022.00
Park Road	61.50
Total	\$1,156.856.11

Check numbers 23336 – 23382, 23384 – 23400 ACH: \$53,511.09

Ayes: Zambito, White, Michalak, Underhill

MOTION CARRIED by unanimous vote (5-0)

DEPARTMENT REPORTS:

The Deputy Supervisor reported on the following departments:

Building – Keeping busy with permits, inspections and new projects

Highway- Gearing up for winter. Had their first run of the season this morning.

Supervisor’s Report:

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

State of Emergency Declaration- The SOE Declaration that expired November 13, 2020 at 5:59 P.M. has been extended. The state of emergency continues primarily to be consistent with Genesee County, the State of New York and the United States of America in response to this pandemic, as we are obligated to respond in the speed provided us in a State of Emergency.

GAM- There is a GAM meeting tomorrow evening via Zoom at 7:00 P.M.

COMMUNICATIONS:

The Town Clerk reported on the following:

November Town Clerk monthly report collected a total of \$6,747.00, remitted \$4,748.59 to the Supervisor for the Local Share.

Training Workshops- Seneca Trail Resource Conservation and Development Council is having a workshop on “Laying the Groundwork for Farmland Protection” on December 7, 2020. Also, the NYS Division of Local Government Services 2020-2021 Winter Webinar Series begins December 8 and goes through January 12, 2021. Town Officials were notified of these trainings.

COMMITTEE REPORTS:

Ellicott Trail- Councilman Zambito reported there is a map pamphlet on the Ellicott Trail that has been printed. It was produced with sponsorship dollars and support from the Genesee County

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Chamber of Commerce.

The Deputy Supervisor wished everyone a Happy, Safe Thanksgiving.

ADJOURNMENT:

Motion Councilman Zambito, second Councilwoman Michalak to adjourn the Regular Town Board Meeting at 7:16 P.M.

Ayes: Zambito, Michalak, White, Underhill

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teressa M. Morasco
Town Clerk