

**MAY 19, 2021  
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  
Alecia Kaus, Video News Reporter

The Supervisor called the meeting to order at 7:09 P.M.

**Public Hearing Local Law 2 of 2021, “Remote Work Policy”-** The Supervisor called the Public Hearing to Order for Local Law 2 of 2021 at 7:10 P.M. - Minutes for public hearing entered separately.

**April 21, 2021 Regular Town Board Meeting:** Motion Councilwoman Michalak, second Councilman Zambito to approve the minutes as written.

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

**MOTION CARRIED by unanimous vote (5-0)**

**RESOLUTION NO. 90:**

Councilwoman White offered the following:

**RESOLUTION ADOPTING LOCAL LAW No. 2 of 2021**

**WHEREAS**, proposed Local Law No. 2 of 2021 of the Town of Batavia entitled “A Local Law, Establishing a Town of Batavia Remote Work Policy”, which proposed Local Law in its final form was presented to the Town Board at the meeting held on April 21, 2021, and a copy thereof was kept with the Town Clerk and copies were both laid upon the desks of the members of said Town Board and mailed to each member of the Town Board not in attendance at said meeting, at least ten (10) days, exclusive of Sundays, prior to its final passage; and

**WHEREAS**, a public hearing on the advisability of enacting said proposed Local Law was held on May 19, 2021, before this Town Board, pursuant to public notice duly published in The Daily News according to law, at which time all interested persons were heard; and

**WHEREAS**, the Town Board of the Town of Batavia, New York, is of the opinion that adoption of said proposed Local Law No. 2 of 2021 is in the best interest of the Town of Batavia, New York,

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Batavia, New

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York that said proposed Local Law No. 2 of 2021, entitled, "A Local Law Establishing a Town of Batavia Remote Work Policy", be and the same hereby is adopted, and such Local Law shall be entered in the minutes of the Batavia Town Board; and be it

**FURTHER RESOLVED**, that certified copies of said Local Law No. 2 of 2021 be filed with the New York State Secretary of State in accordance with Law; and be it

**FURTHER RESOLVED**, that this Local Law shall become effective as provided by law upon its filing in the Office of the Secretary of State.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (5-0)**

Local Law Filing

New York State Department of State  
41 State Street, Albany, NY 12231

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

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

~~County~~  
~~City~~  
Town  
~~Village~~

of Batavia, Genesee County, New York

Local Law No. 2 of the year 2021.

A local law To Implement Remote Work Policy

(Insert Title)

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

~~County~~  
~~City~~  
Town  
~~Village~~

**Batavia, Genesee County, New York**

as follows:

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**ARTICLE I:           ENACTMENT**

The title of this chapter shall be "A Local Law to Implement Remote Work Policy."

**ARTICLE II:           INVESTMENT POLICY**

The text of the Remote Work Policy for the Town of Batavia shall be as follows:

**1. Purpose**

This policy outlines guidelines, terms, and conditions for employees who work from a location other than our offices and provides an agreement between remote work employees and their Department Head. Its purpose is to ensure that employees, the Town of Batavia, and the public that we serve will all benefit from these arrangements.

**2. Guidelines, Terms, and Conditions:**

**A. Eligibility**

All remote work must receive prior approval from your Department Head using a form developed from time to time by the Town and maintained in the offices of the Town Clerk (the "Remote Work Agreement"). To ensure that employee performance will not suffer in remote work arrangements, the following should be considered by the employee and their Department Head when determining eligibility for remote work:

- Can duties be met through basic hardware and software?
- Does the remote work location have a reliable internet connection that is adequate for the job?
- Will the remote work location be reasonably quiet and distraction free?
- Has the employee proven to be trustworthy, disciplined, and self-motivated?

A probationary period where work is completed in the Town Office may be required before approval is given to work remotely.

Not all positions are appropriate or feasible for remote work and an employee's remote work capability will be assessed on a case-by-case basis. Remote work eligibility will be re-assessed from time-to-time based on job needs and employee performance.

**B. Work Expectations**

Work expectations remain the same regardless of whether an employee works in the Town offices or from a remote location. Employees are expected to:

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- Work their full work schedule as determined by their Department Head;
- Dedicate their full attention to their job duties during working hours;
- Be accessible by phone and/or email while working, responding to correspondence within a reasonable amount of time;
- Adhere to all conditions in the Employee Handbook and all Town policies (e.g. conduct, confidentiality, cybersecurity, this Employee Remote Work Policy, Remote Work Agreement, etc.); and
- Present themselves in a professional manner whenever working with co-workers and the public, including observing the dress code during in-person or video meetings.

**C. Schedule**

While some flexibility is allowed, the employee must agree to work set hours as much as possible. These hours will be determined by the Department Head, through discussions with the employee. Scheduled work hours should overlap with the scheduled work hours of team members for as long as is necessary to complete job duties effectively. Meal and rest breaks as established in the Employee Handbook should be observed. Schedules may include a mix of remote work and work with Town Offices.

**D. Equipment**

The Town will provide remote employees with equipment and software that is essential to their jobs (e.g., laptops and cell phones). This equipment will be listed in the Remote Work Agreement. Any equipment that is provided is Town property. The Town of Batavia retains control over the property and reserves the right to monitor said property. Town provided property is to be used for Town purposes only and the employee is responsible for providing reasonable measures of keeping the equipment safe from damage or theft, including the intellectual information contained on the equipment.

Upon termination of employment, all Town property shall be returned to the Town of Batavia.

**E. Insurance, Liability, Compensation, & Benefits**

Remote work does not change the terms and conditions of your employment with the Town of Batavia. Employees working remotely will still receive full benefits as outlined in the Employee Handbook, including leave time, health insurance, and worker's compensation.

Only equipment owned by the Town and on loan to the employee is covered by the Town's chosen insurer. All other equipment is to be covered by the employee's personal insurance provider.

No changes will be made to an employee's salary, if said employee works from home. Salaries will increase according to Town policy and successful performance reviews. Employees working remotely remain eligible for promotion and skills development programs.

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ARTICLE III: **EFFECTIVE DATE AND SEVERABILITY**

Section 1: Effective Date

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

Section 2: Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

**(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 2021, of the ~~(County)~~ (City) (Town) (Village) of Batavia, New York was duly passed by the Town Board on \_\_\_\_\_, in accordance with the applicable provisions of law.

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

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

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the ~~(County)~~ (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_, and was (approved) (not disapproved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a

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majority of the qualified electors voting thereon at the (general) (special) (annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

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

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

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

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

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

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

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

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

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

\_\_\_\_\_

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Teresa M. Morasco  
Town Clerk, Town of Batavia

Date: \_\_\_\_\_, 2021

**(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: \_\_\_\_\_, 2021

**RESOLUTION NO. 91:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION AUTHORIZING WEST PROFLEX SUBSCRIPTION  
WITH WEST PUBLISHING CORPORATION (Westlaw)**

**WHEREAS**, the Town's subscription to the West Proflex from West Publishing Corporation (Westlaw) expires May 22, 2021; and

**WHEREAS**, the West Publishing Corporation provided a quote for West Proflex subscription at a cost of \$127.20 per month for one year.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to subscribe to West Proflex Subscription from West Publishing Corporation, a Thomson Reuters business, for the Attorney

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for the Town to utilize, at a cost of \$127.20 per month for one year; and be it further

**RESOLVED**, the Supervisor is hereby authorized to execute the subscription order form, a copy of which is annexed hereto and made a part of the minutes.

**Second by:** Councilwoman White

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 92:**

Supervisor Post offered the following:

**RESOLUTION AUTHORIZING KIWANIS CLUB OF BATAVIA TO HOLD A DRIVE  
THROUGH FUNDRAISER- CHICKEN BBQ AND LUGGAGE DRIVE TO SUPPORT  
YOUTHS IN FOSTER CARE**

**WHEREAS**, the Kiwanis Club of Batavia requested use of Kiwanis Park to hold a drive through Chicken Barbeque and Luggage Drive to Support Foster Youths on Saturday, June 26, 2021.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes the Kiwanis Club of Batavia to hold a drive through Chicken Barbeque and Luggage Drive to Support Foster Youths on Saturday, June 26, 2021 at Kiwanis Park waiving the park use fee; and be it further

**RESOLVED**, Kiwanis Club of Batavia is required to follow the Town of Batavia Park rules and regulations, as well as adhering to Governor's executive orders pertaining to the pandemic and gatherings.

**Second by:** Deputy Supervisor Underhill

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 93:**

Councilwoman Michalak offered the following:

**ACCOUNTING SOFTWARE MAINTENANCE AGREEMENT  
WILLIAMSON LAW BOOK COMPANY**

**RESOLVED**, the Batavia Town Board hereby authorizes the Supervisor to execute the annual renewal Accounting Software Maintenance Agreement between the Town of Batavia and Williamson Law Book Company at a cost of one thousand, eighty dollars (\$1,080.00) for one (1) year, effective May 1, 2021 to April 30, 2022, a copy of which is annexed hereto and made a part of the minutes.

**Second by:** Councilwoman White



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

**RESOLUTION NO. 94:**

Councilman Zambito offered the following:

**ESTABLISHING STANDARD WORKDAY AND REPORTING  
ELECTED AND APPOINTED OFFICIALS  
EXEMPT FROM THE TIME AND ATTENDANCE SYSTEM**

**RESOLVED**, the Batavia Town Board hereby establishes the following as a standard workday for elected and appointed officials exempt from the time and attendance system and will report the following days worked to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by these officials to Town Clerk and Secretary to the Supervisor;

		Elected & Appointed Officials						
Title	Name	Social Security Number (Last 4 digits)	Registration Number	Standard Work Day (hrs/day)	Current Term Begins/Ends	Participates in Employer's Time Keeping System	Record of Activities	Tier 1 (Check only if m is in Tier 1)
Town Highway Superintendent	Thomas J. Lichtenthal, Sr.	■■■	■■■■■	8	01/01/2018-12/31/2021	N	8.72	
Town Justice	Andrew J. Young, Sr.	■■■	■■■■■	6	01/01/2021-12/31/2024	N	5.38	

and be it further

**RESOLVED**, the Town Clerk is hereby directed, as required by Section 315.4 (c), to post said resolution on the Town's website and the sign board located in the Town Hall; and be it further

**RESOLVED**, the Town Clerk is hereby directed to file a certified copy of the resolution and an affidavit of posting with the Office of the State Comptroller's.

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

**RESOLUTION NO. 95:**

Councilwoman White offered the following:

**RESOLUTION TO APPROVE AN AGREEMENT BETWEEN TOWN OF BATAVIA AND  
WESTERN REGIONAL OFF-TRACK BETTING CORPORATION FOR  
PARK ROAD IMPROVEMENTS**

**WHEREAS**, the Town owns and maintains a roadway with appurtenant public improvements commonly known as Park Road in the Town. Western Regional Off -Track Betting Corporation (OTB)

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owns the real property abutting the east and west side of the roadway between New York State Route 63 and Richmond Avenue; and

**WHEREAS**, in the interest of enhancing the aesthetics and safety of Park Road, the parties wish to make various improvements to Park Road along its course from its intersection with New York State Route 63, up to and including its intersection with Richmond Avenue; and

**WHEREAS**, the governing boards of each party have determined it to be in the best interest of the parties to enter into a Park Road Improvements Agreement; and

**WHEREAS**, the Town agrees to assume responsibility for the installation of the improvements; and

**WHEREAS**, in consideration for the installation of the improvements by the Town, OTB agrees to pay to the Town of Batavia the sum of \$350,000.00 upon execution of said agreement.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Batavia, New York, that the proposed “Park Road Improvements Agreement”, by and between the Town of Batavia and Western Regional Off-Track Betting Corporation, a copy of which is annexed hereto and made part of the Town Board Minutes is hereby approved, and the Town Supervisor is authorized and directed to execute this Agreement on behalf of the Town of Batavia.

**Second by:** Councilman Zambito

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

**APPROVED by unanimous vote (5-0)**

**REMOVE FROM TABLE:** Motion Deputy Supervisor Underhill, second Councilman Zambito to remove from table Resolution 58 of 2021, entitled “ Resolution Authorizing Assignment of Ellicott Trail Easements to the County of Genesee and Resolution 60 of 2021, entitled “Resolution Authorizing Transfer of Real Property to the County of Genesee”.

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

**MOTION CARRIED by unanimous vote (5-0)**

**RESOLUTION NO. 96:**

Deputy Supervisor Underhill offered the following:

**RESOLUTION AUTHORIZING ASSIGNMENT OF ELLICOTT TRAIL EASEMENTS TO  
THE COUNTY OF GENESEE**

**WHEREAS**, The Town acquired certain easements to support the development of the Ellicott Trail, including the following:

<b><u>TAX ID</u></b>	<b><u>RECORDING LOCATION</u></b>	<b><u>GRANTOR</u></b>
85.013-1-29	Instrument # DE2018-564	1515 Management Company, Inc.
85.013-1-31	Instrument # DE2018-358	Sikes Realty, LLC

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(collectively, the “Easements”), and,

**WHEREAS**, the Town now wishes to assign to the County of Genesee (the “County”) all its right, title and interest in and to such Easements and all Ellicott Trail improvements thereon,

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board hereby authorizes and directs the Supervisor to execute and deliver to the County all instruments necessary and sufficient to assign the Easements and all Ellicott Trail improvements thereon to the County in the form acceptable to the Attorney for the Town and the Town Engineer.

**Second by:** Councilman Michalak

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 97:**

Supervisor Post offered the following:

**RESOLUTION AUTHORIZING TRANSFER OF REAL PROPERTY TO  
THE COUNTY OF GENESEE**

**WHEREAS**, The Town acquired certain real property, in fee, to support the development of the Ellicott Trail, including the following:

<u>TAX ID</u>	<u>RECORDING LOCATION</u>	<u>GRANTOR</u>
85.013-1-45.2	Instrument # DE2018-934	Time Warner Cable Northeast, LLC

(the “Premises”), and,

**WHEREAS**, the Town now wishes to transfer all its right, title and interest in and to the Premises and all Ellicott Trail Improvements thereon to the County of Genesee (the “County”),

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board hereby authorizes and directs the Supervisor to execute and deliver to the County all instruments necessary and sufficient to transfer the fee interest in the Premises and all Ellicott Trail improvements thereon to the County in the form acceptable to the Attorney for the Town and the Town Engineer.

**Second by:** Councilwoman White

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 98:**

Councilwoman Michalak offered the following:

**RESOLUTION TO APPROVE AN AGREEMENT  
FOR THE**

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**ROUTE 98 REHAB AND INTERSECTON IMPROVEMENTS, PIN 4761.04**

**WHEREAS**, the New York State Department of Transportation, ( hereinafter referred to as “NYSDOT”), administers federal funding for the Transportation Improvement Program, and has proposed a “ Federal Aid Local Project Agreement” (hereinafter referred to as the “Agreement”) for the Route 98 Rehab and Intersection Improvements, PIN 4761.04, and

**WHEREAS**, this Agreement and the annexed Schedules and Appendixes refers to the initial phases of the project regarding preliminary engineering phase, and

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Batavia, New York, that the aforesaid “Federal Aid Local Project Agreement” with Schedules A and B and Appendixes A, A-1 and B annexed thereto, is hereby approved, and the Town will comply with all the terms and conditions therein, and it is further

**RESOLVED** that the Project is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-Federal (local) funds. The Town Board does hereby authorize and approve the preliminary engineering phase of the project at a total cost of \$187,000 for the work on the Project covered by the agreement with the sum of \$149,600 to be reimbursed by Federal Aid, leaving the sum of \$37,400 as the non- federal (local) share, and it is further

**RESOLVED**, that the Town Board hereby authorizes the initial payment of 100% of the total federal and non-federal share of the cost for the Project or portions thereof with the understanding that the Town will be reimbursed by Federal funds for 80% of the total cost of the project per the agreement; and it is further

**RESOLVED**, that in the event the full federal and non-federal share costs 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 State thereof, and it is further

**RESOLVED**, that the Town Supervisor of the Town of Batavia is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the Town of Batavia with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's initial funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

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

**RESOLVED**, that this Resolution shall take effect immediately.

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**Second by:** Deputy Supervisor Underhill

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

**APPROVED by unanimous vote (5-0)**

**RESOLUTION NO. 99:**

Councilman Zambito offered the following:

**A BOND RESOLUTION, DATED MAY 19, 2021, OF THE TOWN BOARD OF THE TOWN OF BATAVIA, GENESEE COUNTY, NEW YORK (THE “TOWN”), AUTHORIZING THE ACQUISITION OF A MAINTENANCE VEHICLE AND ASSOCIATED EQUIPMENT, AT AN ESTIMATED MAXIMUM COST OF \$500,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$500,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SUCH PURPOSE, SUCH AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.**

BE IT RESOLVED, by the Town Board of the Town of Batavia, in the County of Genesee, New York (the “Town”) (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

**SECTION 1.** The Town is hereby authorized to acquire a maintenance vehicle and associated equipment, including all necessary equipment, apparatus and warranties and all preliminary costs and costs incidental thereto and in connection with the financing thereof (collectively, the “Purpose”). The estimated maximum cost of the Purpose is \$500,000.

**SECTION 2.** The Town Board plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an aggregate principal amount not to exceed \$500,000 of the Town, hereby authorized to be issued therefor pursuant to the Local Finance Law, such amount to be offset by any federal, state, county and/or local funds received. Unless paid from other sources or charges, there shall annually be levied on all the taxable real property of the Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

**SECTION 3.** It is hereby determined that the Purpose is a class of objects or purposes described in subdivision 28 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of such Purpose is 15 years.

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

**SECTION 5.** It is hereby determined the proposed maturity of the obligations authorized by this resolution is expected to be in excess of five years.

**SECTION 6.** The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual

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appropriation will be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, there will annually be levied on all the taxable real property of the Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

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

**SECTION 8.** The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in this resolution.

**SECTION 9.** This resolution shall constitute the declaration (or reaffirmation) of the Town's "official intent" to reimburse the expenditures authorized in this resolution with the proceeds of the bonds, notes or other obligations authorized herein, as required by United States Treasury Regulations Section 1.150-2.

**SECTION 10.** The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

**SECTION 11.** The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

**SECTION 12.** The Town Supervisor is further authorized to call in and redeem any outstanding obligations that were authorized hereunder (at such times and in such amounts and maturities as may be deemed appropriate after consultation with Town officials and the Town's municipal advisor), to approve any related notice of redemption, and to take such actions and execute such documents as may be necessary to effectuate any such calls for redemption pursuant to Section 53.00 of the Local Finance Law, with the understanding that no such call for redemption will be made

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unless such notice of redemption shall have first been filed with the Town Clerk.

**SECTION 13.** The Town hereby determines that the Purpose is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQRA") are required.

**SECTION 14.** In the absence or unavailability of the Town Supervisor, the Deputy Town Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

**SECTION 15.** The validity of such serial bonds or of any bond anticipation notes issued in anticipation of the sale of such serial bonds may be contested only if:

1. (a) such obligations were authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) the provisions of the law which should be complied with as of the date of publication of this notice were not substantially complied with

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

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

**SECTION 16.** This resolution is subject to permissive referendum pursuant to Section 35.00 of the Local Finance Law. The Town Clerk is hereby authorized and directed to publish (one time) and post on the sign-board of the Town, this resolution, or a summary thereof, together with a notice of adoption of this resolution subject to permissive referendum, within ten days after the date of adoption of this resolution.

**SECTION 17.** If no petitions are filed in the permissive referendum period, the Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance Law, in the official newspaper(s) of the Town, or if no newspaper(s) have been so designated, then in a newspaper having general circulation in the Town, which newspaper shall be designated by the Town Board in a separate resolution.

\* \* \*

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

AYES:

NOES:

ABSENT:

The foregoing resolution was thereupon declared duly adopted.

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

**SUSPEND THE RULES**-Motion Deputy Supervisor Underhill, second Councilman Zambito to suspend the rules to introduce an additional resolution.  
**Ayes:** Underhill, Zambito, White, Michalak, Post  
**MOTION CARRIED by unanimous vote (5-0)**

**RESOLUTION NO. 100:**  
Councilwoman White offered the following:

**RESOLUTION TO AUTHORIZE PURCHASE OF  
IPAD AIR  
ENGINEERING DEPARTMENT**

**WHEREAS**, the Engineering Department requested a purchase of an Ipad Air and accessories (Ipad, Apple Pencil, Keyboard and Otter Box) for field use.

**NOW, THEREFORE, BE IT**

**RESOLVED**, the Batavia Town Board hereby authorizes the purchase of one 10.9” Apple Ipad, Pencil, Keyboard and Outer Box at a cost not to exceed \$1,200.00; and be it further

**RESOLVED**, the expenditure will be appropriated from A1440.200.

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

**Abstract No. 5-2021:** Motion Councilman Zambito, second Councilwoman Michalak to authorize the Supervisor to pay the following vouchers:

General	\$71,512.33
Highway	18,725.82
Sewer No. 1	187,211.36
Sewer No. 2	53,486.53
Water	19,138.68
Highway Equipment	240,938.26
Ellicott Trail	315.00
<b>Total</b>	<b>\$591,327.98</b>

Check numbers 23744 thru 23809, online \$43,458.92  
**Ayes:** Zambito, Michalak, White, Underhill, Post



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**MOTION CARRIED by unanimous vote (5-0)**

**DEPARTMENT REPORTS:**

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

**Building and Planning-** Continue to be busy with projects, inspections, permitting and meeting with developers and residents.

**Water/Wastewater-** operations continue to expand with construction of new projects throughout the County that the Town is in contract to service. Continue with testing, maintenance and repairs.

**Highway-** operations continue, paving with other communities and getting the Town roads ready for paving. Trying to get the paving complete before the costs increase due to oil prices rising.

**Engineering** - continues to review plans for a number of projects. Preparing for Park Road Waterline Improvements and the Park Road Reconstruction Project and starting to do the Town's component of the Route 98 Intersection Rehabilitation Improvements, as well as continuing to administer and support planning board and zoning board operations.

**Assessment-** The Assessor's office has been working overtime with the evaluation of properties throughout the community and answering calls and meeting with constituents.

**Supervisor's Report:**

**Status Report** on expenditures and revenues is available for the Board's review. Noting that revenue is up from mortgage sales tax. Housing sales and transfers have been going strong.

**GAM** meeting tomorrow evening at 7:00 P.M. via Zoom.

**Engineering Planning Grant** – received notification from the NYSDEC and Environmental Facilities Corporation (EFC) that the Town has been awarded a Engineering Planning Grant for the Pratt Road Sewer Study.

**COMMUNICATIONS:**

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

**April Town Clerk** monthly report collected a total of \$15,436.00, remitted \$15,211.08 to the Supervisor for the Local Share.

**GLOW Region Solid Waste-** Received notice from GLOW that there will be a shredding/recycling event at the Town of Pavilion June 12, 2021, a Household Hazardous Waste Collection September 18, 2021, in Rock Glen, and an Electronic Collection on Saturday, September 25, 2021, in Rock Glen. Appointments are needed to participate.

**COMMITTEE REPORTS:**

**Solar Committee** – Councilman Zambito reported that they have been doing a lot of research and gathering of information, as well as working on getting a consultant to assist with the amendment to the Solar Law.

**ADJOURNMENT:**

Motion Deputy Supervisor Underhill, second Councilman Zambito to adjourn the Regular Town Board Meeting at 7:33 P.M.

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

**MOTION CARRIED by unanimous vote (5-0)**

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Respectfully submitted,

Teresa M. Morasco  
Town Clerk