

**TOWN OF BETHANY****REGULAR TOWN BOARD MEETING****13 May 2019**

Supervisor Hyde opened the May 13, 2019 Regular Town Board Meeting at 7:01 p.m. with the Pledge of Allegiance followed by a prayer offered by Councilman Embt.

Town Officials in Attendance were:

Carl Hyde, Jr., Supervisor	Jeffrey Fluker, Councilman
Timothy Embt, Councilman	Daniel Street, Councilman
Diane Fowler, Councilwoman	Debbie Douglas, Town Clerk
William Shea, Town Justice	Thomas Douglas, CEO/ZEO (8:00)
David DiMatteo, Town Attorney	

Attendees to the Meeting were:

Bill Elsasser	Gerry Fry
Don Frank	Maelynn Hyde
Ray Cipriano	Chris Krtanik
Scott Wakefield	Wayne Nichols

**FINANCES**

Supervisor Hyde presented the finances for April 2019.

General Savings	\$ 991,134.23	
Highway Savings	\$ 580,448.98	
AP/PR Account	\$ 71,609.52	
Trust & Agency Account	\$ 5,071.48	
Highway Checking	\$ 2,711.73	
Supervisor	\$ 132,629.83	
Water District #2	\$ 82,320.90	
Petty Cash	\$ 200.00	
Total		\$ 1,866,126.67

Revenues Received		
Debbie Douglas, Town Clerk	\$ 1,840.94	
Debbie Douglas, Tax Collector	\$ 2,187.79	
Debbie Douglas, Tax Collector	\$ 200.00	
Co. of Genesee, S & I – County Roads	\$ 59,181.64	
Union Life STD – M Heale	\$ 1,080.00	
Co. of Genesee, 1 <sup>st</sup> Qtr. Sales Tax	\$ 122,283.93	
Charter Communications – Franchise Fee	\$ 7,415.77	
Millennium Hotel – Refund for snow day	\$ 104.00	
US Post Office	\$ 100.00	
William Shea, Town Justice	\$ 2,244.00	
Thomas McBride, Town Justice	\$ 4,739.00	
Total Revenue	\$ 201,077.07	
Total Interest	\$ 152.71	
Total Revenue		\$ 201,229.78

**PUBLIC HEARING – INCORPORATION OF MAPS INTO THE TOWN OF BETHANY COMPREHENSIVE PLAN**

Supervisor Hyde opened the public hearing at 7:05 pm.

What is the change?

The area in the East Bethany Route 63 area is more specifically outlined. The previous map showed a sort of a blob for commercial/industrial. The area is now outlined using property lines.

Discussion of solar regulation ensued, however, that use or any other use would be defined in the zoning law.

Supervisor Hyde closed the public hearing at 7:48 pm.

**Town Clerk Report – Debbie Douglas**

- Presented the Minutes of the April 8, 2019 Special Town Board meeting.

On **MOTION** made by Councilwoman Fowler, duly seconded by Councilman Fluker, to approve the Minutes of the April 8, 2019 Special Town Board meeting as presented. Motion passed with All In Favor.

- Presented the Minutes of the April 8, 2019 Regular Town Board meeting.

On **MOTION** made by Councilman Fluker, duly seconded by Councilman Street, to approve the Minutes of the April 8, 2019 Regular Town Board meeting as presented. Motion passed with All In Favor.

- Electronics collection, sponsored by State Legislators, will be held on June 1, 2019 from 9 am until noon next to National Grid on East Main Street in Batavia. On September 21, 2019, GLOW will be collecting electronics from 9 am until noon in Batavia.
- GLOW will be holding a Hazardous Waste/Pharmaceutical collection on September 14, 2019. An appointment is necessary to participate in this collection. GLOW will begin taking appointments on July 22.
- More information concerning these collections can be found on the website calendar and is posted at the Town Hall and the Transfer Station.
- Genesee County Legislature will be holding an informational session concerning the construction of the new County Jail on Thursday, May 16, 2019 from 5 -8 pm at the Old County Courthouse. This is an open house type session.
- Windsong Radiology Group will have their mobile mammography unit at the Bethany Town Hall on Wednesday, June 26, 2019 from 10 am – 5pm. More information is on the website calendar and also posted at the Town Hall.
- Thank you note from Hollwedel Memorial Library for a gift of money.
- The Clerk's Monthly Report and Bank Statements for April were reviewed by the Town Board.

**CEO/ZEO Report – Thomas Douglas**

- Road review is complete. Violation letters are going out.
  - o Violations were issued to 13 address for junk/unregistered vehicles.
  - o 19 unsafe buildings and 15 unsafe/unsanitary yards will be receiving violation notices.
  - o Written complaints have been received concerning some of the properties that will be receiving violations.
  - o Gerry Fry noted that the property across the road (9484 Fargo Road) has 5 junk/unregistered vehicles. Yard is also a mess.
  - o Wayne Nichols expressed his extreme displeasure concerning the Frank & Jamie Stanton property. Several junk vehicles and a general mess all about the property. Used the word “disgusting” to describe it. He also noted that the ditch that runs between his property and the Stanton property has a lot

- of metal, guardrail and trash in it that has come from the Stanton's property. The roadside ditch opposite the property is also full of trash.
- Both of the above referenced properties are on the list to receive violations.
  - Discussion of proper procedures for enforcing compliance with zoning laws.
    - Notice of violation issued.
    - Order to Remedy issued if action has not been taken by the property owner.
    - Appearance in local or supreme court to be determined by the Town Board would be the next step.
    - Local court may fine or institute jail time. Supreme Court could allow the Town to remove vehicles, demolish buildings, etc. The cost of legal fees, and remediation would then be processed as a lien/judgement on the property.
    - During these proceedings it is extremely important that residents testify as to how the violation(s) affects them.

### **Highway Superintendent Report – Barbara Czworka**

- Warranty work on truck 1201 has been completed. \$1,500 was taken off the transmission bill. Coolant lines were also changed, ABS had rubbed through the surface of the brake hose.
- Tree trimming with Pavilion and Alexander.
- New bristles were installed on the broom head and it was installed on the tractor.
- Fuel tank has been labeled and tank has been painted. Tank closure information has been added to the Fuel Book at the Highway Garage. Name change for the registration has been completed. Drain port still needs to be changed.
- Highway took care of leaning trees on Mill Road. Drave's Tree Service took care of leaning trees on Paul Road.
- Winter equipment has been removed from trucks and they are ready for summer.
- Replaced on plastic mailbox. Filled holes in front of mailboxes of two residents who received letters from the Postal Service.
- Used three ton of cold patch so far this year
- Helped with paving in Stafford.
- Added gravel to Old East Road near the store.
- Cleaned shoulders from plow discharge.
- Replace front passenger side tire on 1203.
- Brooming has been completed.
- Replace controller on John Deere tractor.
- Completed training with SuitKote for blacktop and survey training with Cornell Local Roads.
- Requested an additional \$40,000 to complete two road projects - Transit Road and Mill Road. There is approximately \$30,000 in the emergency fund for the Highway. Supervisor Hyde said that he would rather not deplete that fund. He will do some research and discuss it with the Highway Superintendent then revisit the topic at the next board meeting.

### **Town Justice Report – Justice McBride and Justice Shea**

- Judge Shea noted that the fines are higher when the prosecutor negotiates a case however, the fines are usually paid in installments. Supervisor Hyde said that he expected that to happen.
- April monthly reports for Justice Shea and Justice McBride were presented to the Board.

### **Board Committee Reports**

#### **Councilman Fluker**

- The Fire Department received one new application during their FASNY open house.

#### **Councilman Street**

- The Planning Board met for a work session on May 2 to begin review of the Town's Zoning Law.

**Councilwoman Fowler**

- Water Resource Agency met on April 9<sup>th</sup>. Tim Hens noted that the system is in good shape however, usage has gone up significantly. This does cause some worry about how long the system can handle the increase.
- The funding for Water District #5 is still designated.

**Supervisor Hyde**

- The Fire Department has refused the Town’s offer to purchase the kitchen.

**OLD BUSINESS**

**Water District Update**

**RESOLUTION #23-2019 AUTHORIZING THE EXECUTION OF THE LEGAL SERVICES AGREEMENT FOR TOWN OF BETHANY WATER DISTRICT NO. 4**

**WHEREAS**, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

**WHEREAS**, the Town of Bethany is working toward the establishment of Water District No. 4 in the Town of Bethany; and

**WHEREAS**, a portion of the financing of said water district will involve Rural Development funding which requires the submission of RUS Bulletin 1780-7; Legal Services Agreement; and

**WHEREAS**, the Town Board feels it is in the best interest of the Town of Bethany to enter into a Legal Services Agreement with the David M. DiMatteo, Attorney for the Town of Bethany.

**NOW ON MOTION OF** Councilman Fluker which has been duly seconded by Councilwoman Fowler, now, therefore be it

**RESOLVED**, by the Town Board of the Town of Bethany to authorize and empower Carl Hyde, Jr., Supervisor of the Town of Bethany, to execute RUS Bulletin 1780-7; Legal Services Agreement.

Motion **PASSED** with the following Roll Call Vote:

- |                           |                         |
|---------------------------|-------------------------|
| Supervisor Hyde – Yes     | Councilman Fluker – Yes |
| Councilman Embt – Yes     | Councilman Street – Yes |
| Councilwoman Fowler – Yes |                         |

**Right-Of-Way Certificate – WD#4**

On **MOTION** of Councilwoman Fowler, duly seconded by Councilman Street, Supervisor Hyde is authorized to execute the Right-Of-Way Certificate for Town of Bethany Water District No. 4.

Motion **PASSED** with the following Roll Call Vote:

- |                           |                         |
|---------------------------|-------------------------|
| Supervisor Hyde – Yes     | Councilman Fluker – Yes |
| Councilman Embt – Yes     | Councilman Street – Yes |
| Councilwoman Fowler – Yes |                         |

**Water District #5**

- Working on paperwork, engineering, Rural Development application, easements.

**Transfer Station – Update**

- Supervisor Hyde reported that the Transfer Station is at -\$448.75 so far this year.

**Glidden Matter**

- Attorney DiMatteo has requested that the Town Board consider hiring Robert Hutchison, Jr. as an expert witness in the case.
- Mr. Hutchison’s fees are \$75 per hour for research and \$200 for expert court testimony. Mr. DiMatteo expects that there will be approximately three hours of research and one hour of testimony plus travel.

On **MOTION** of Supervisor Hyde, duly seconded by Councilman Embt, the Town Board approved the hiring of Robert Hutchison, Jr. as an expert witness for the Glidden Matter.

Motion **PASSED** with the following Roll Call Vote:

Supervisor Hyde – Yes	Councilman Fluker – Yes
Councilman Embt – Yes	Councilman Street – Yes
Councilwoman Fowler - Yes	

**RESOLUTION #24-2019 INCORPORATION OF MAPS INTO THE COMPRESHENSIVE PLAN OF THE TOWN OF BETHANY**

**WHEREAS**, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

**WHEREAS**, the Town Board is considering incorporating maps, attached hereto as **Exhibit A**, into the Comprehensive Plan of the Town of Bethany; and

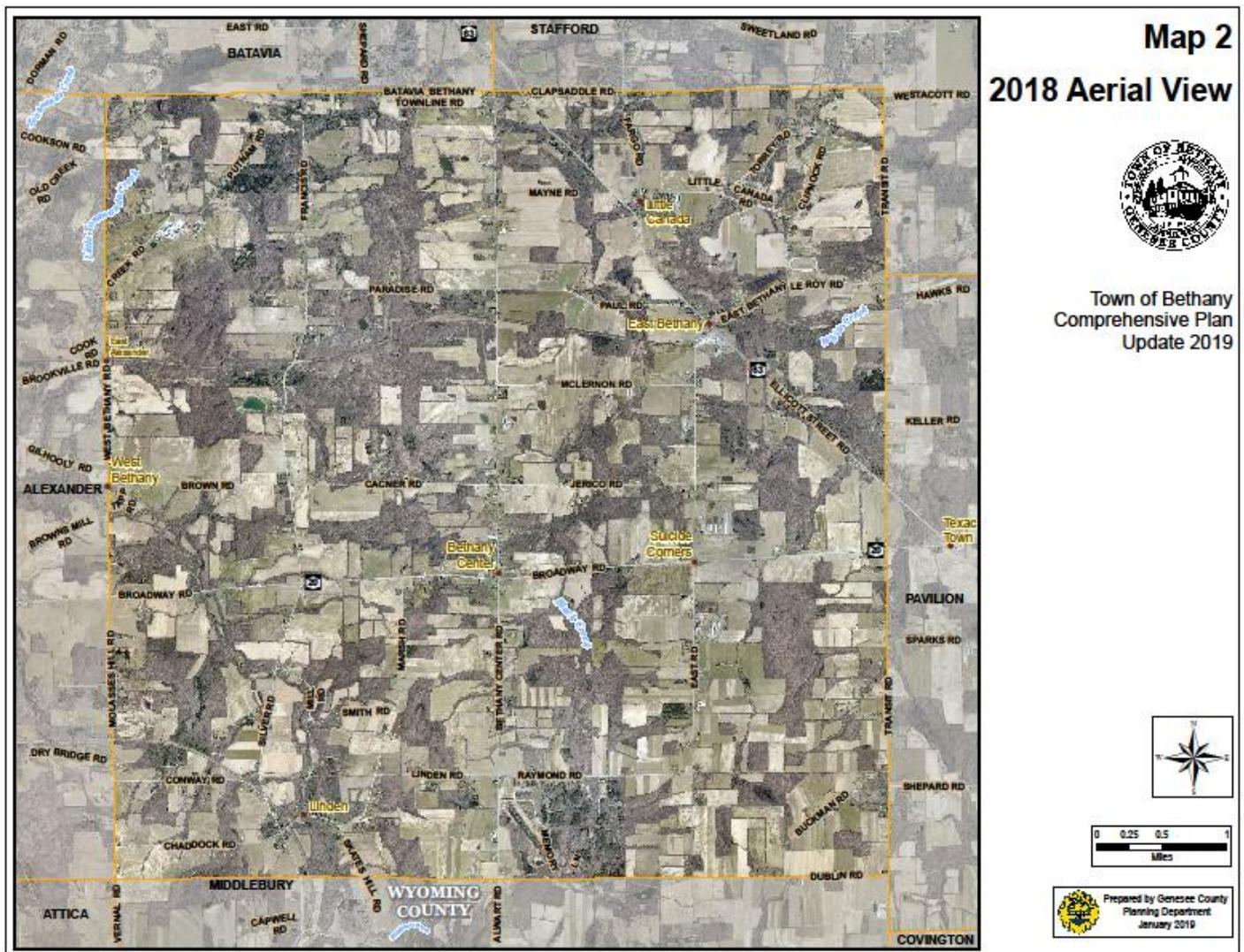
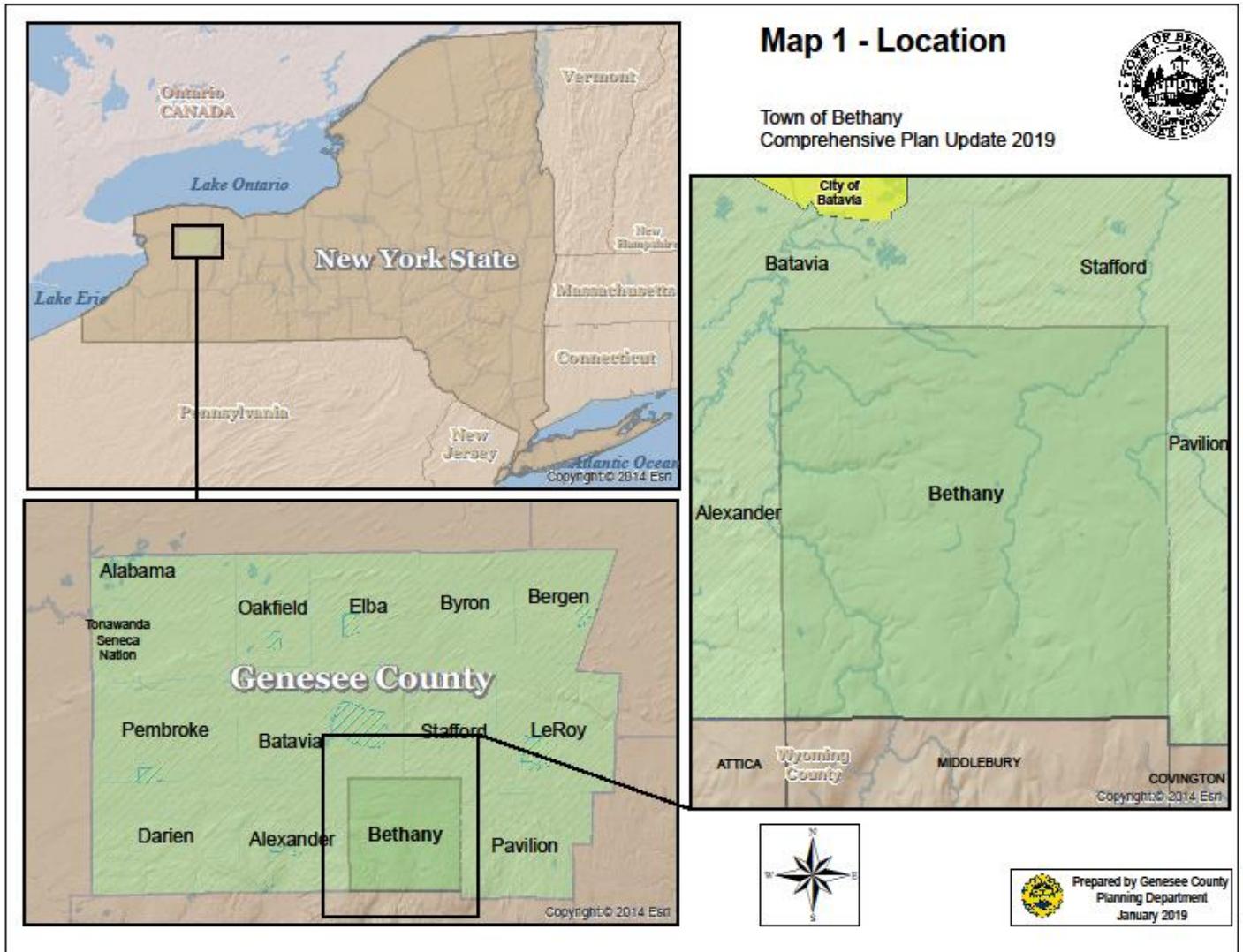
**WHEREAS**, the Town Board did refer said action to the County Planning Board for their review and analysis; and

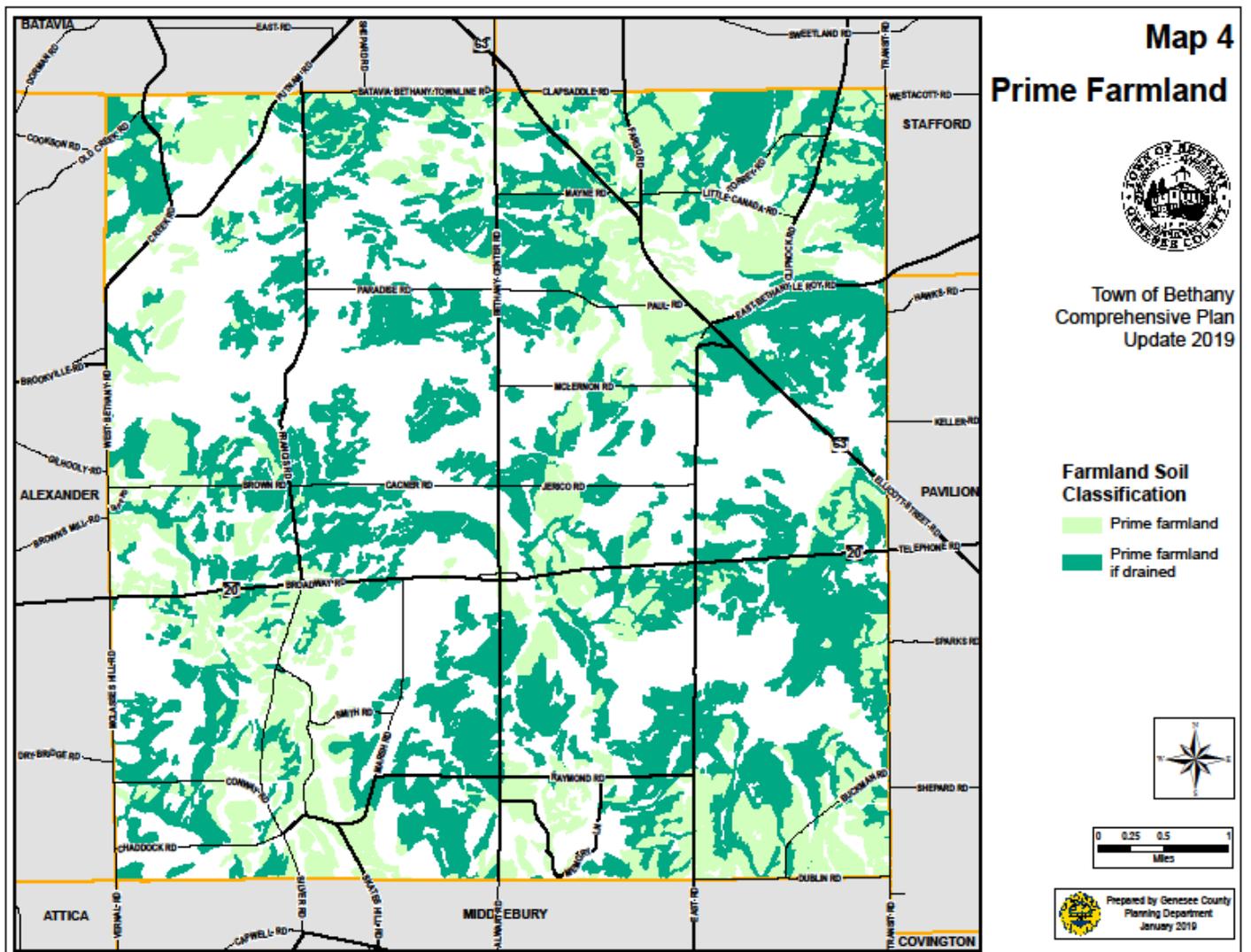
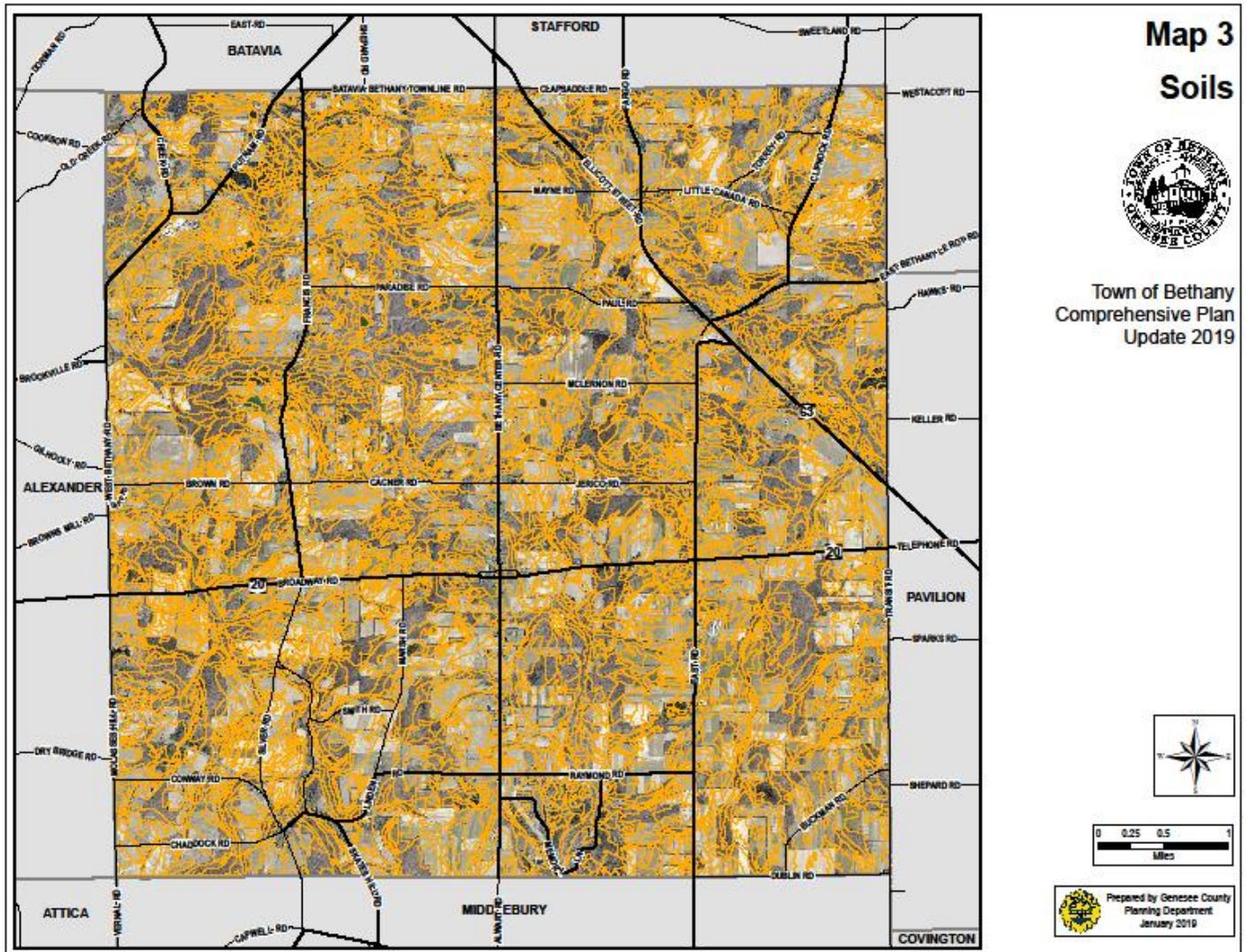
**WHEREAS**, the Town Board of Bethany did hold a public hearing on the incorporation of said maps on the 13<sup>th</sup> day of May, 2019.

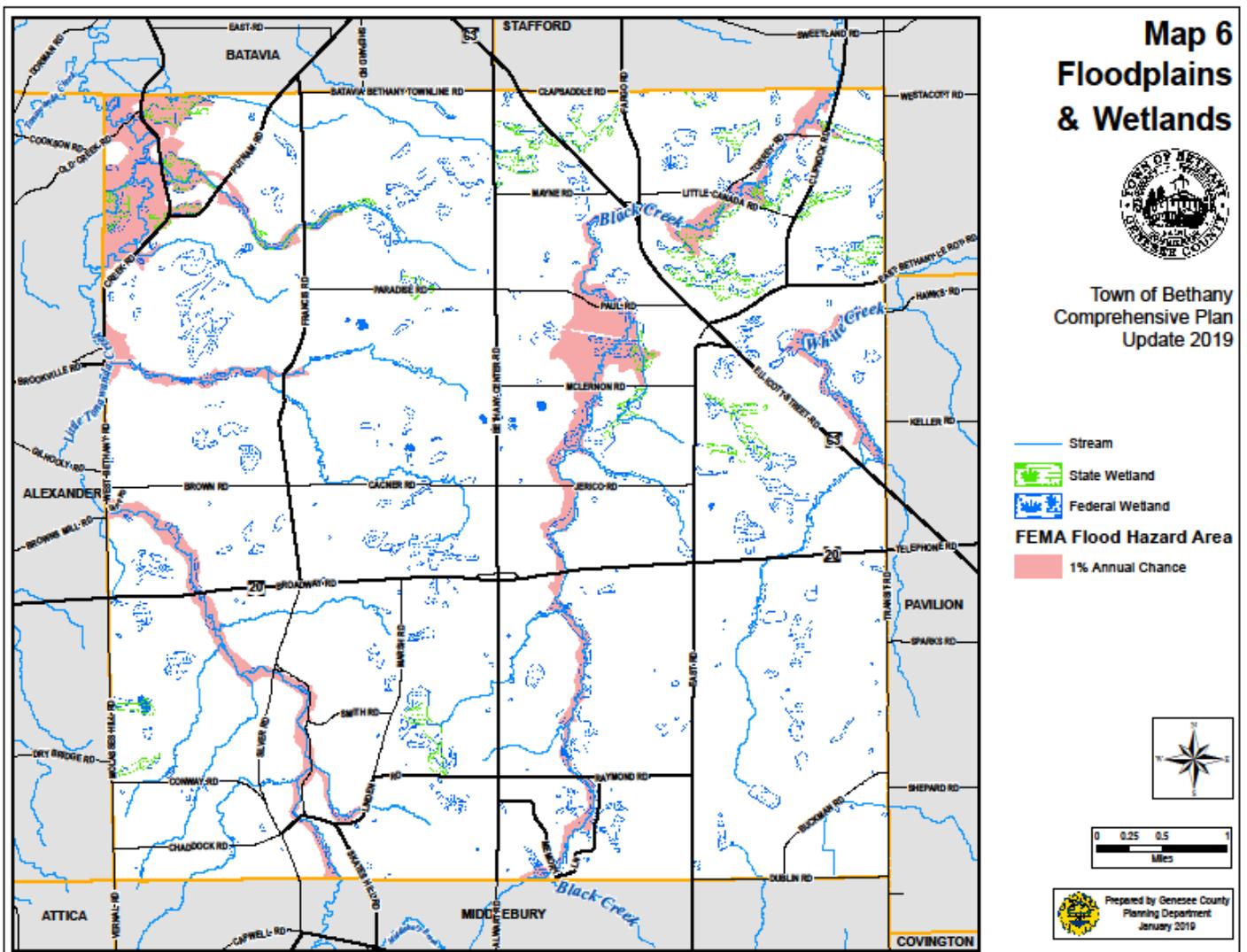
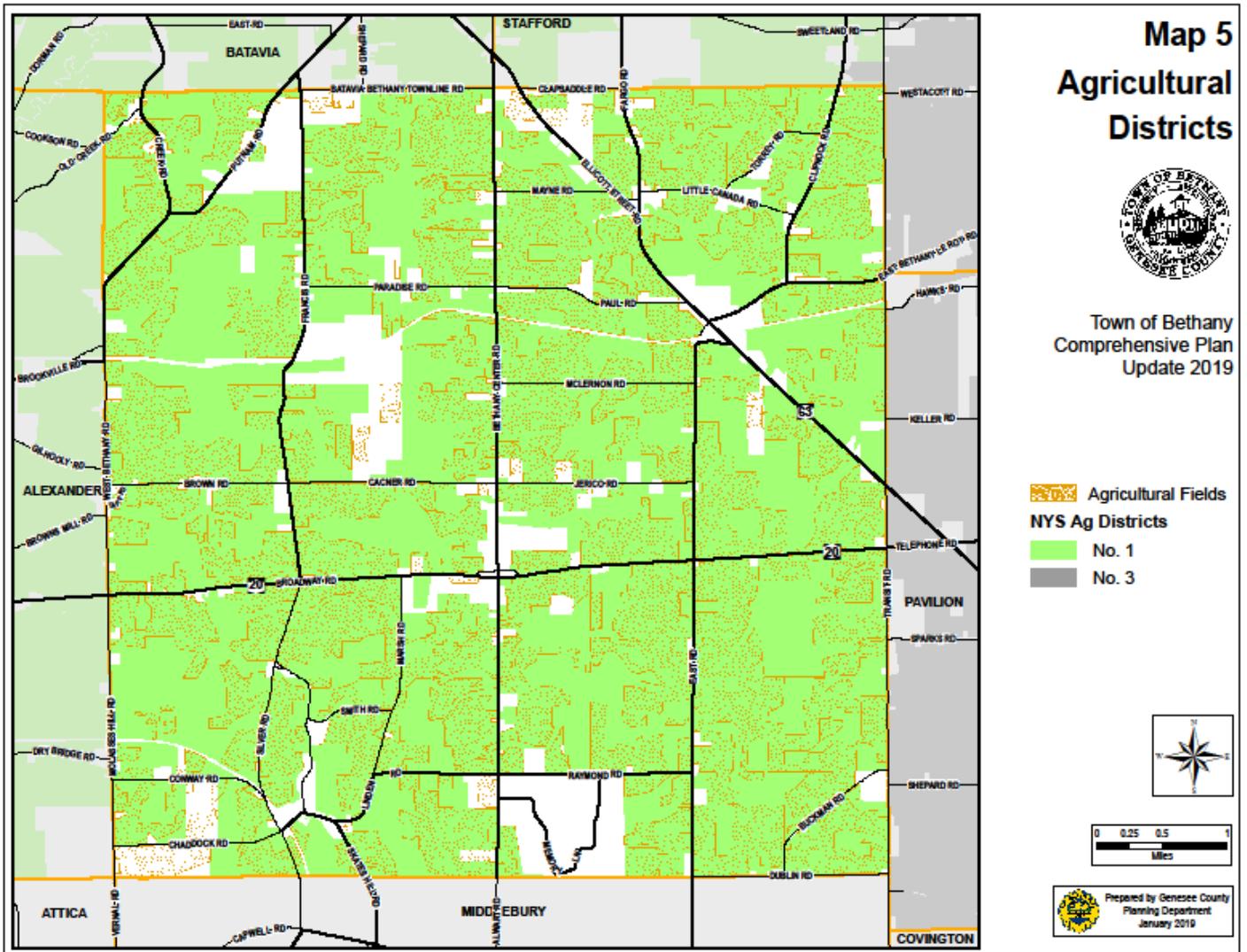
**NOW, THEREFORE, ON MOTION** made by Councilman Fluker and duly seconded by Councilman Street, therefore, be it

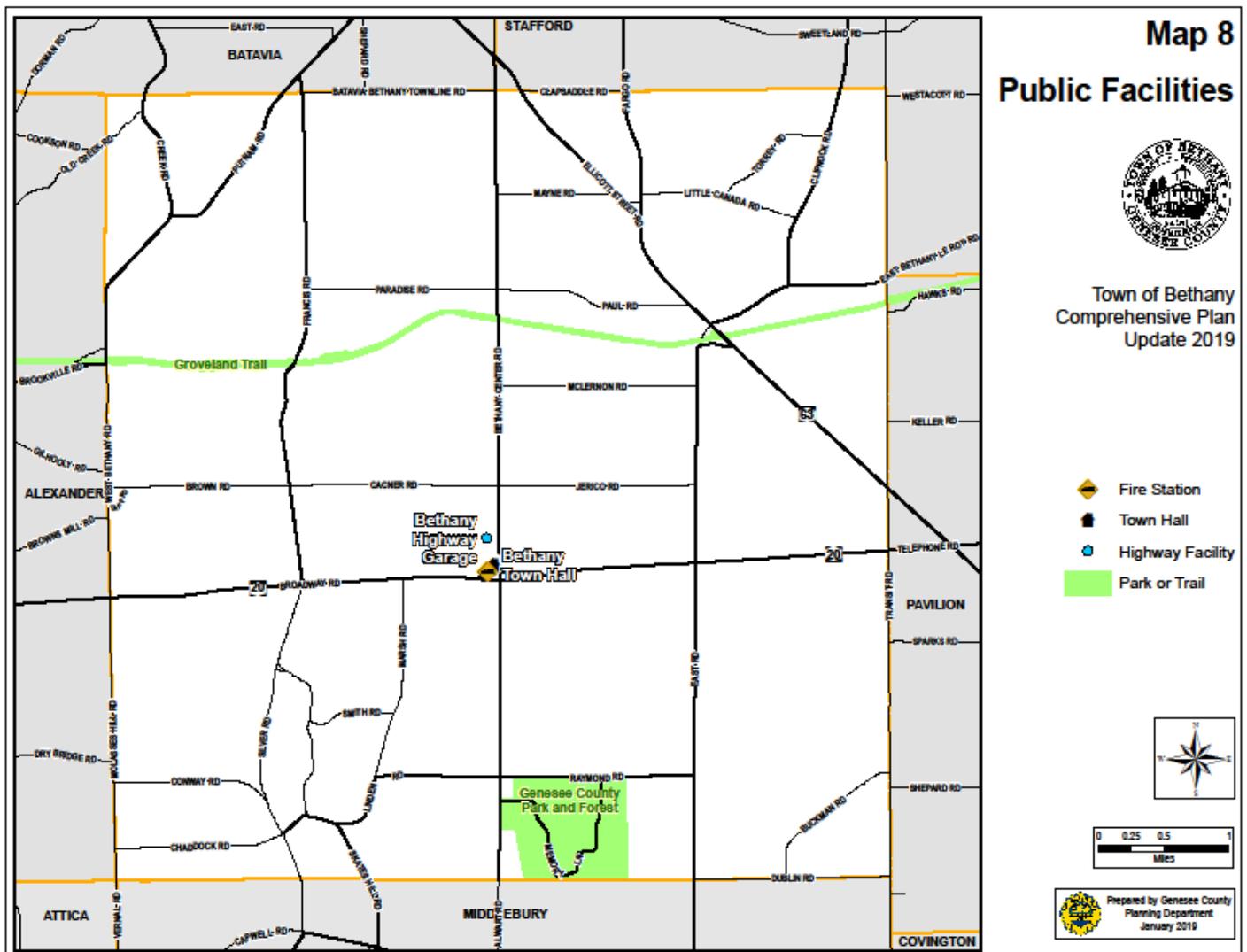
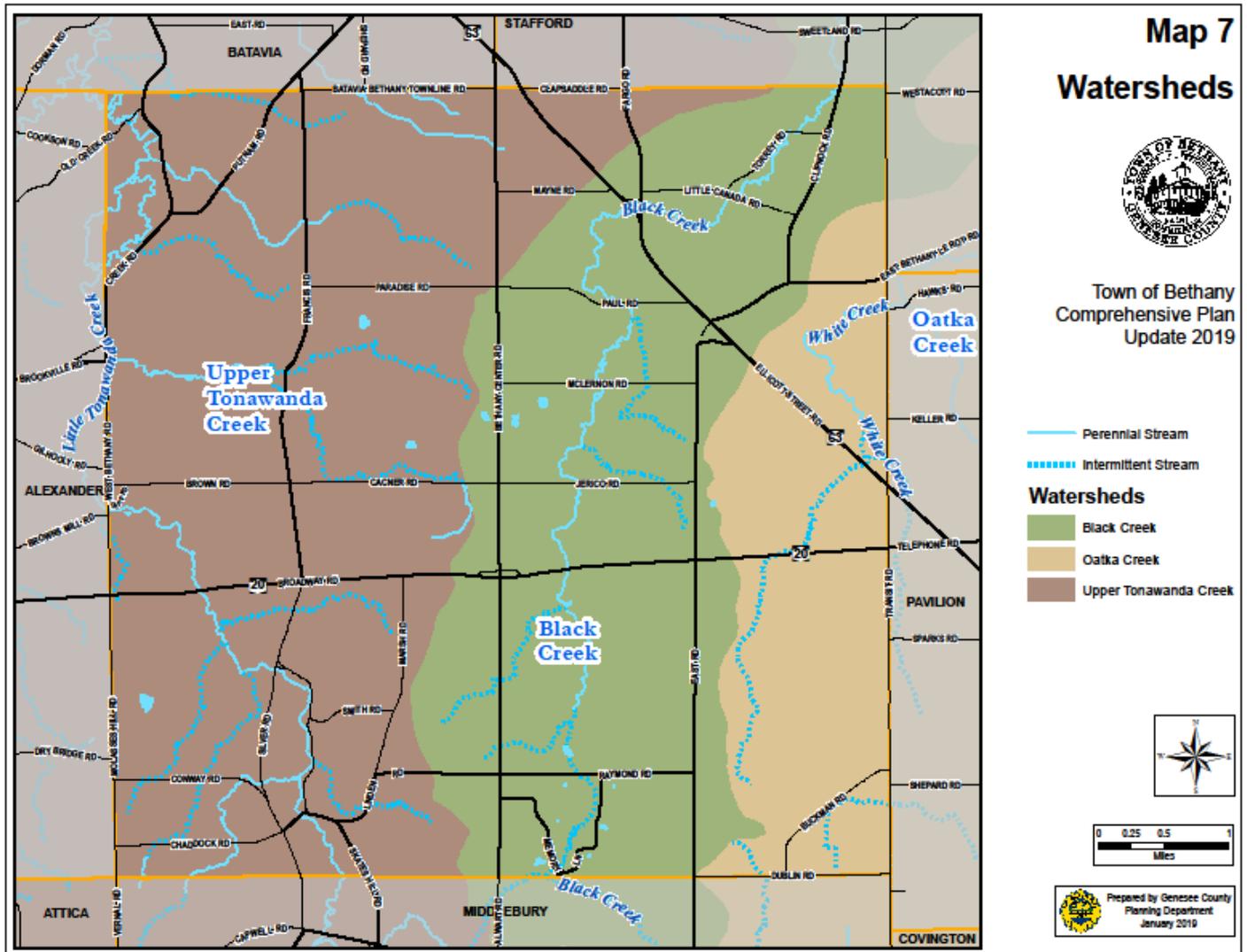
**RESOLVED**, that the Town Board of the Town of Bethany will incorporate maps, attached hereto as **Exhibit A**, into the Comprehensive Plan of the Town of Bethany

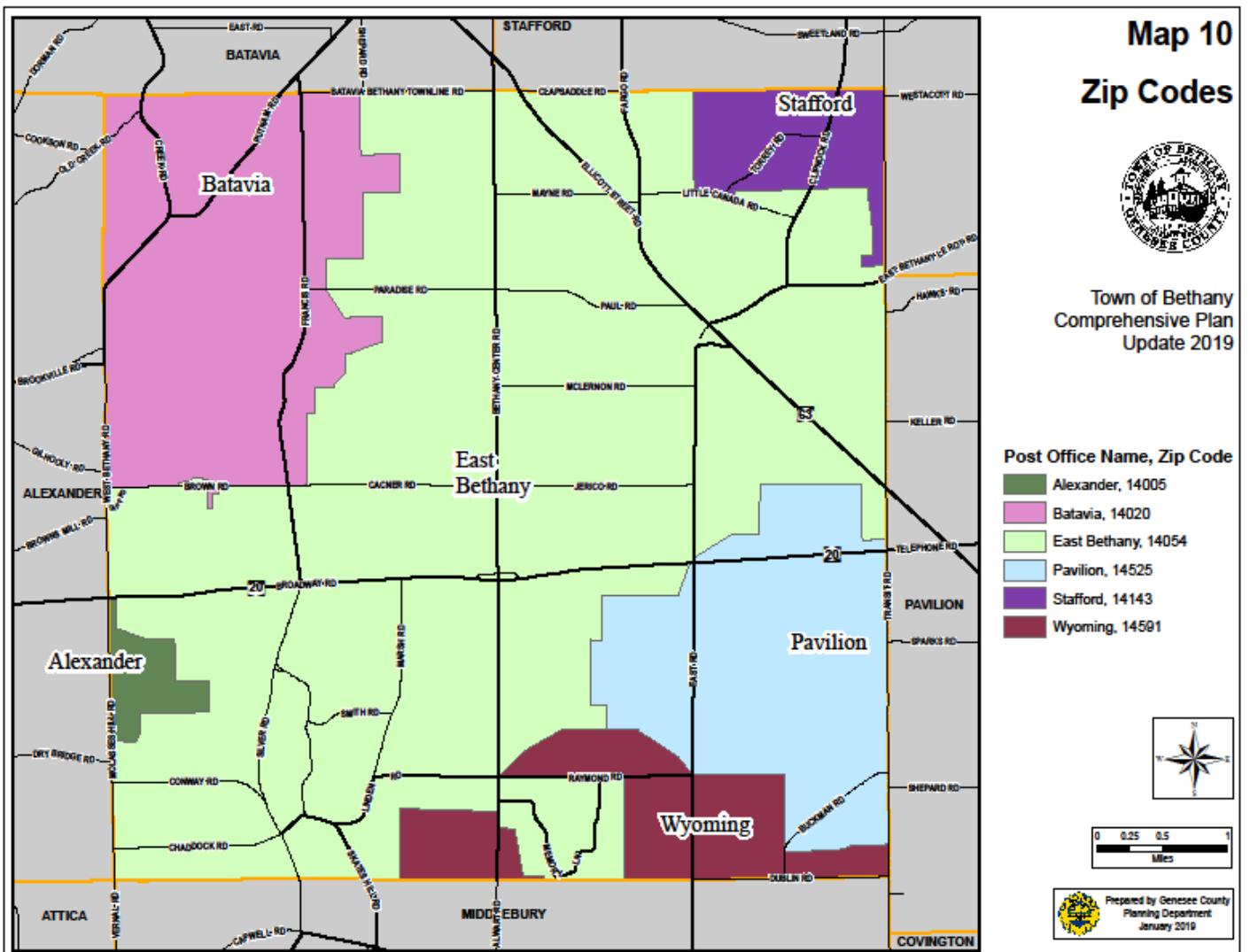
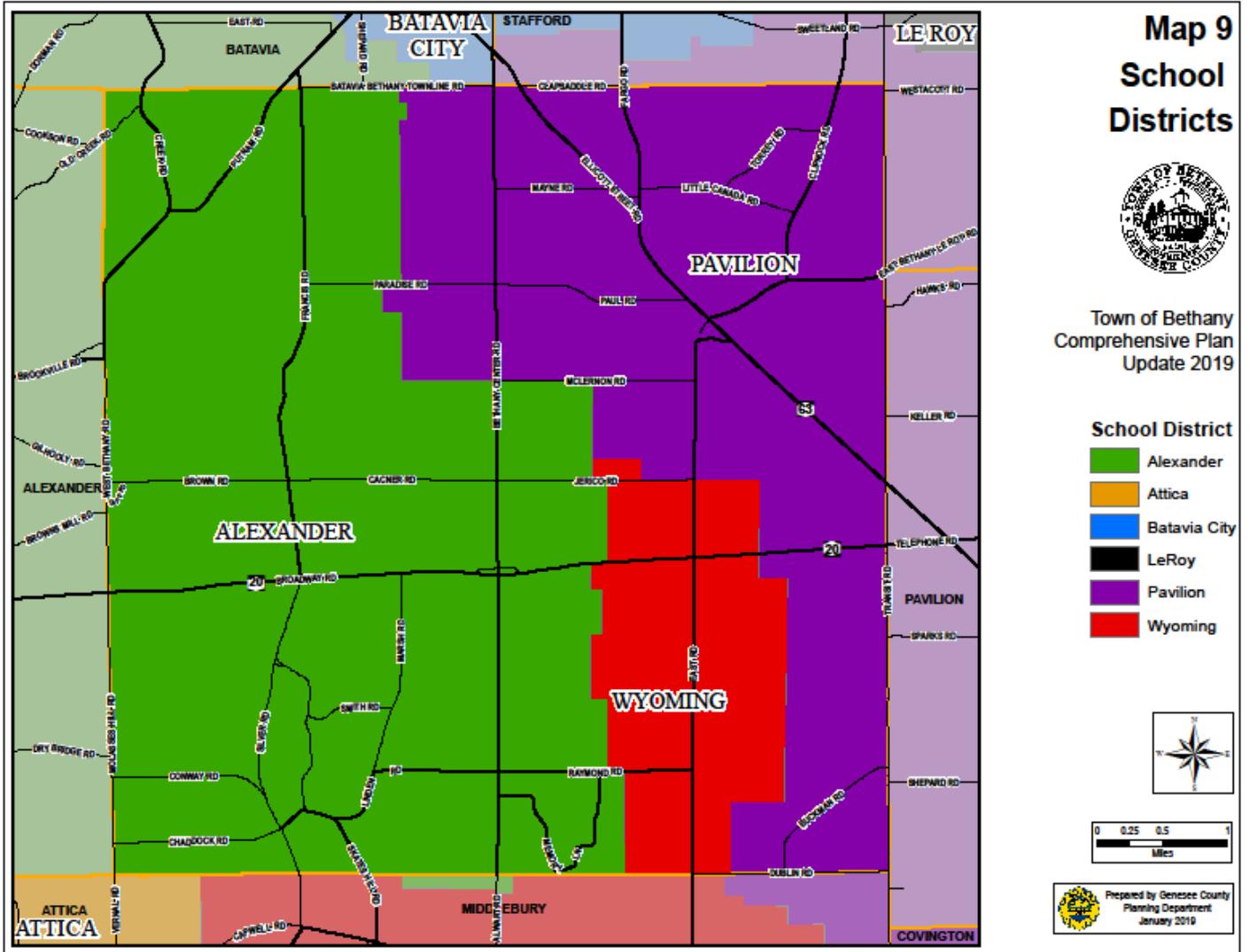
**EXHIBIT A**

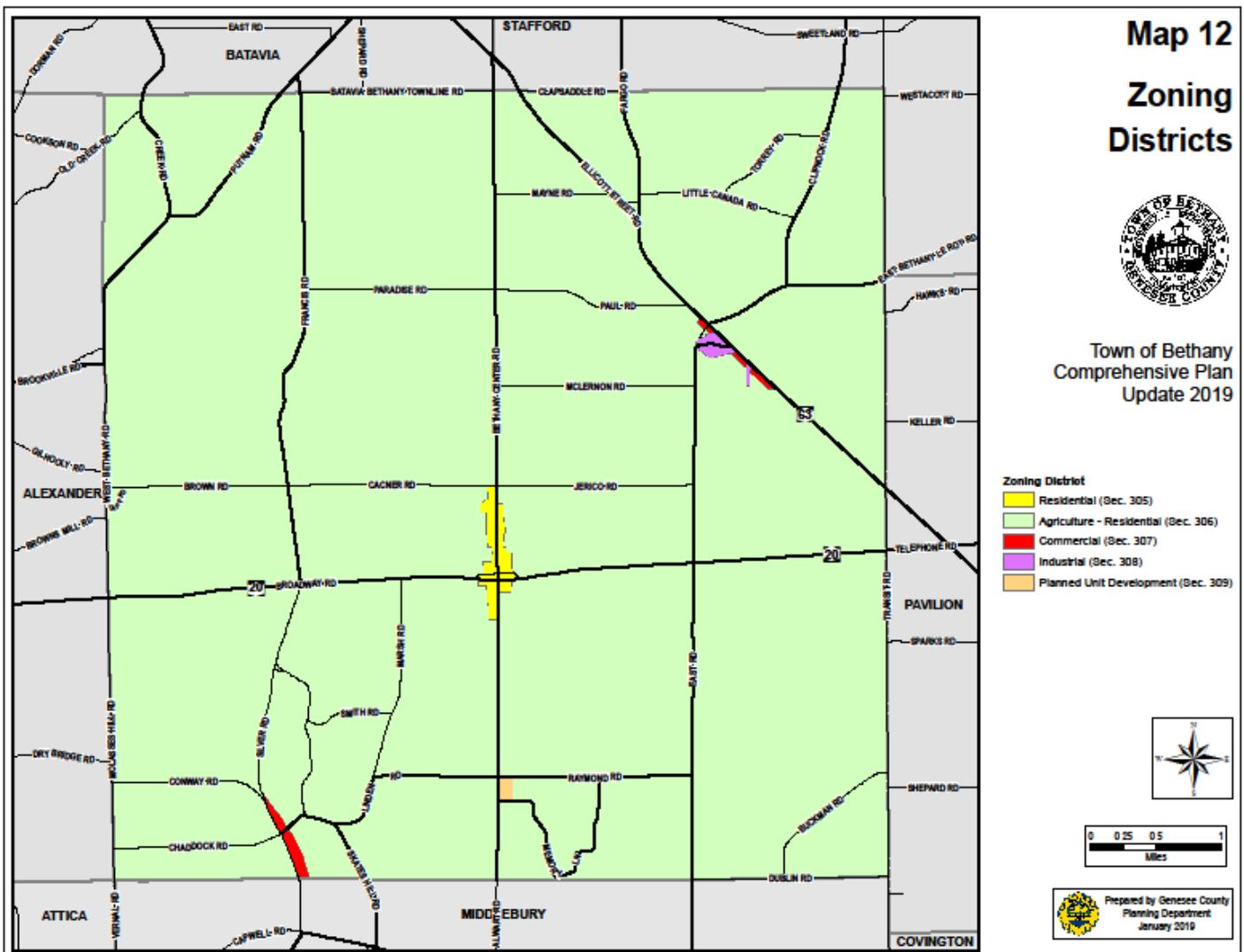
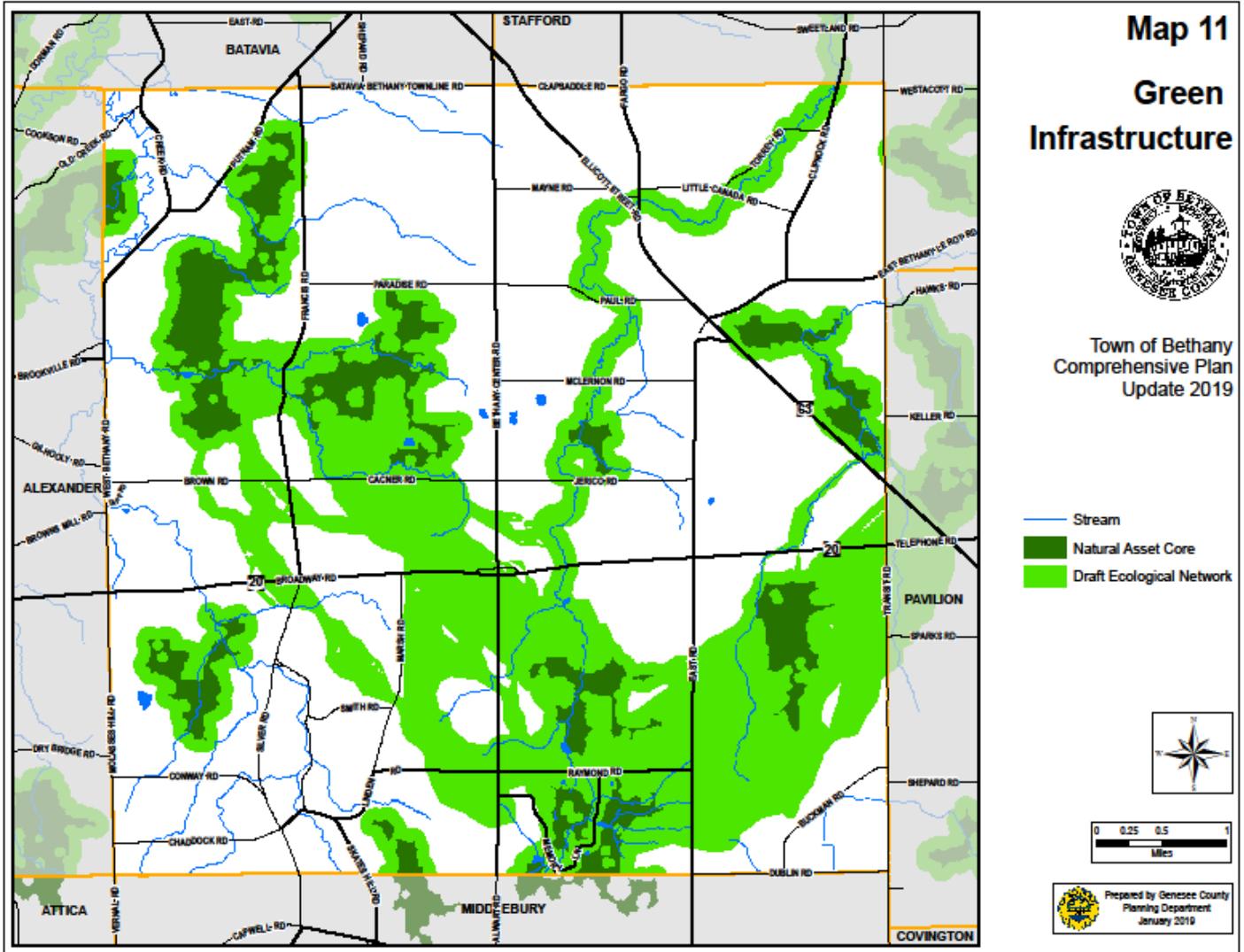


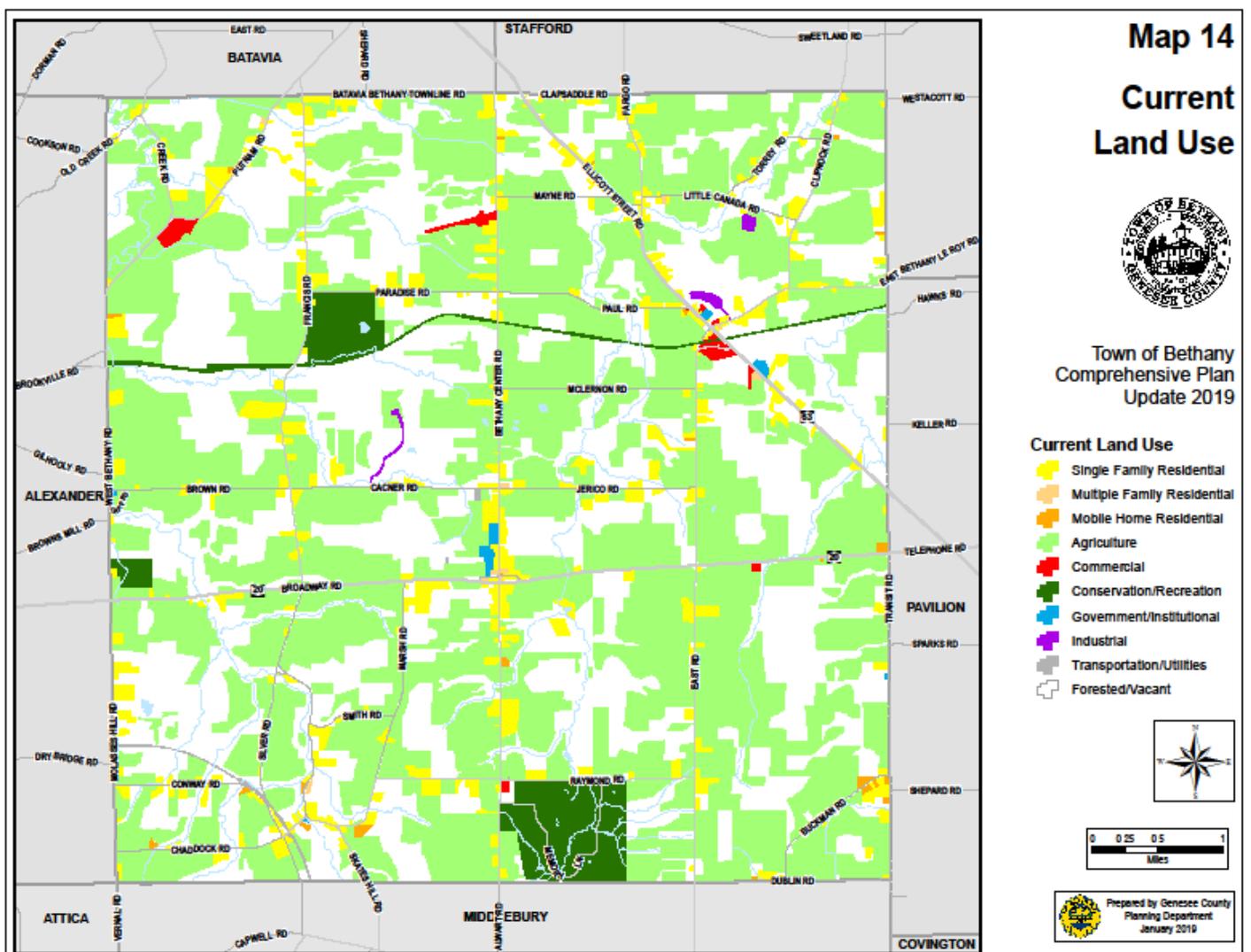
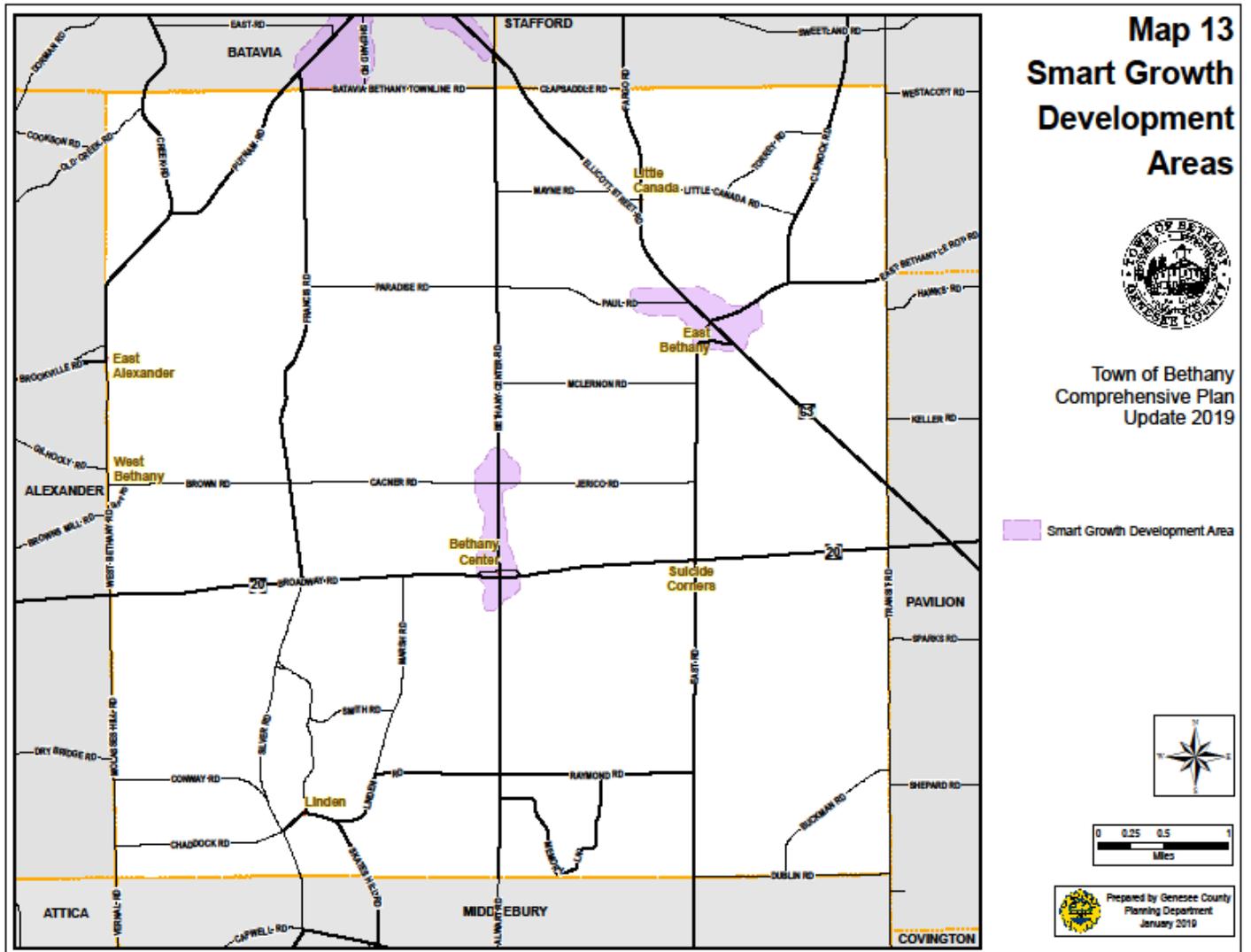


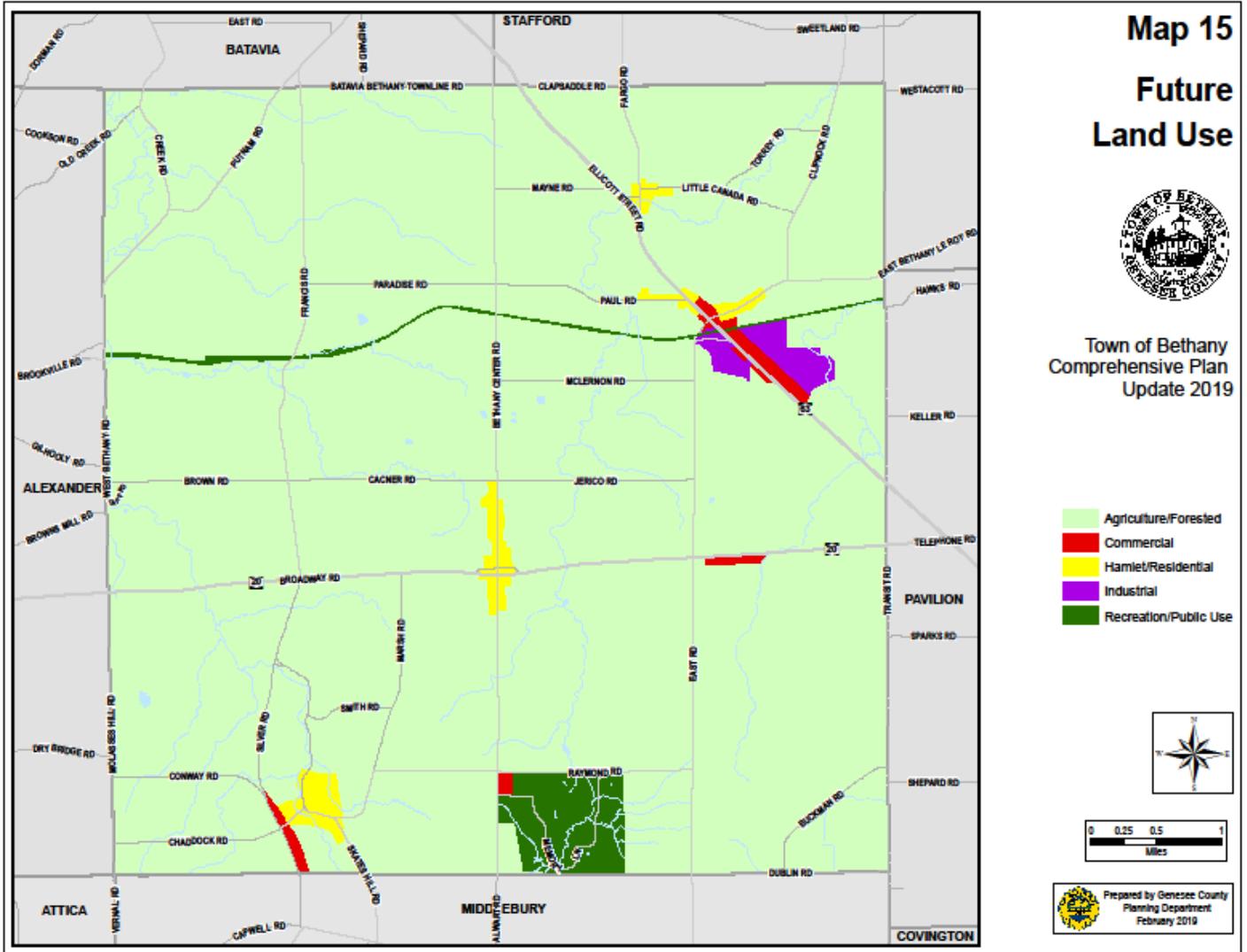












**Historian – Appointment of**

- Scott Wakefield has spoken with Supervisor Hyde and Town Clerk Douglas about his interest in filling the vacant Town Historian position. He also came highly recommended by former Historians Don & Linda Schmidt.

On **MOTION** of Supervisor Hyde, duly seconded by Councilwoman Fowler, Scott Wakefield is hereby appointed to the position of Town Historian.

Motion **PASSED** with the following Roll Call Vote:

- |                           |                         |
|---------------------------|-------------------------|
| Supervisor Hyde – Yes     | Councilman Fluker – Yes |
| Councilman Embt – Yes     | Councilman Street – Yes |
| Councilwoman Fowler – Yes |                         |

**Zoning Board of Appeals Chair – Appointment of**

- Nancy Burke has resigned from the Zoning Board of Appeals as she is moving out of town.
- Janet Berkemeier has agreed to take the ZBA Chair position previously held by Nancy.
- Janet has served on the ZBA since 2001.

On **MOTION** of Supervisor Hyde, duly seconded by Councilwoman Fowler, Janet Berkemeier is hereby appointed to the position of Zoning Board of Appeals Chair.

Motion **PASSED** with the following Roll Call Vote:

- Supervisor Hyde – Yes
- Councilman Embt – Yes
- Councilwoman Fowler – Yes
- Councilman Fluker – Yes
- Councilman Street – Yes

**NEW BUSINESS**

**Stanton Special Use Permit – Pig Pen’s Waller**

- Frank and Jamie Stanton were issued a Special Use Permit allowing them to operate Pig Pen’s Waller in 2014. The Stanton’s were invited to this meeting to review the terms and conditions of the permit. They did not appear.
- Supervisor Hyde asked Town Attorney DiMatteo if the Town Board could “pull” the permit. This cannot be done without a hearing. Testimony from residents is vital to this process.
- Two conditions of the Special Use Permit have not been met after 5 years of operation. Emergency roads are inadequate and the noise barrier has not been constructed.
- According to the web page two events have been scheduled for this summer.
- A registered letter will be sent to Mr. and Mrs. Stanton requesting their presence for a hearing concerning their Special Use Permit to take place at the next Town Board meeting.

**Zoning Violations**

- There was an extensive discussion concerning zoning violations (messy yards, uncut grass, junk/unregistered vehicles) and unwillingness to comply by the owners of these properties. They seem to be the same properties every year.
- The Town Board stated that is unfair to the residents of the town that maintain their properties to live next to properties that are unkempt.
- The Board will be taking a hard line concerning these violations and will be taking any corrective actions necessary to bring property owners into compliance.

**Warrant**

- The Board approved payment of the bills as follows:

	<u>Prepaid</u>	<u>Total</u>
General Fund	\$111,390.29	\$123,858.85
Highway Fund	\$ 2,987.42	\$ 17,146.22
Trust & Agency	\$ 0.00	\$ 17,848.75
Highway Capital Funds Project	\$ 0.00	\$ 0.00
Fire Protection Fund	\$ 0.00	\$ 0.00
Water Fund	\$ 0.00	\$ 0.00
Justice Fund	\$ 0.00	\$ 0.00

**Adjournment**

A **MOTION** was made by Councilman Fluker, duly seconded by Councilman Fowler to adjourn the meeting at 8:51 p.m. The motion **PASSED** with All In Favor.

BY ORDER OF THE  
BETHANY TOWN BOARD  
DATED: May 20, 2019

Respectfully Submitted,  
  
Debbie L. Douglas, RMC  
Bethany Town Clerk