

**Town of Elba
Regular Town Board Meeting
March 8, 2018**

Supervisor Hynes called the meeting to order at 7:00 p.m.

Those in attendance included:

Supervisor Hynes
Councilman Chamberlain
Councilman Coughlin
Councilwoman Zambito
Councilwoman Marshall

Others Present:

Superintendent of Highways Yungfleisch
Town Clerk Werth
Dave Schubel, Webster, Schubel & Meier, LLP

Minutes of February 8, 2018 Town Board Meeting:

MOTION Councilwoman Marshall, second by Councilman Coughlin to approve the minutes as written.

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

MOTION Carried

Minutes of February 22, 2018 Public Hearing – Intention to Modify Plan for Water District No. 2:

MOTION Councilman Chamberlain, second by Supervisor Hynes to approve the minutes as written.

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

MOTION Carried

Minutes of February 22, 2018 Special Meeting Water District No. 2:

MOTION Councilman Chamberlain, second by Councilwoman Marshall to approve the minutes as written.

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

MOTION Carried

RESOLUTION NO. 12-2018 SEQRA DETERMINATION OF NO SIGNIFICANCE FOR THE ADOPTION OF AN AMENDING AND RESTATING BOND RESOLUTION:

The following resolution was offered by Councilman Coughlin:

WHEREAS, the Town of Elba Town Board, at a special meeting held on February 22, 2018, adopted Resolution No. 10-2018 wherein the Town Board determined that the modification of the plan for construction of certain improvements for Town of Elba Water District No. 2 would not have a significant environmental impact and therefore is not subject to further review under 6NYCRR Part 617, and

WHEREAS, the Town Board determined that such improvements should be made and adopted and order modifying such project plan on February 22, 2018, and

WHEREAS, the Town Board wishes to modify the Original Bond Resolution for the primary purpose of modifying the scope of the project to include such improvements and to make other modifications to the Original Bond Resolution, and

WHEREAS, the adoption of an Amending and Restating Bond Resolution is consistent with the SEQRA determinations made on February 22, 2018,

NOW, THEREFORE BE IT RESOLVED that the Town Board ratifies and reaffirms Resolution No. 10-2018 and the determinations made therein.

BE IT FURTHER RESOLVED, the Town Board finds the proposed adoption of an Amending and Restating Bond Resolution will not have a significant environmental impact and therefore it is not subject to further review under 6NYCRR Part 617.

Second By: Councilman Chamberlain
Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito
MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 13-2018 AMENDED BOND RESOLUTION WATER DISTRICT NO. 2:

The following resolution was offered by Councilwoman Zambito:

AN AMENDING AND RESTATING BOND RESOLUTION, DATED MARCH 8, 2018, OF THE TOWN BOARD OF THE TOWN OF ELBA, GENESEE COUNTY, NEW YORK (THE "TOWN"), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON JULY 19, 2017, AND AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT IN THE TOWN OF ELBA WATER DISTRICT NO. 2 AND THE CONSTRUCTION OF IMPROVEMENTS THEREIN, AT AN ESTIMATED MAXIMUM COST OF \$17,769,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$17,769,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND

DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, on July 19, 2017, the Town Board of the Town of Elba, Genesee County, New York (the "Town") adopted a certain bond resolution (the "Original Bond Resolution") entitled:

A BOND RESOLUTION, DATED JULY 19, 2017, OF THE TOWN BOARD OF THE TOWN OF ELBA, GENESEE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT IN THE TOWN OF ELBA WATER DISTRICT NO. 2 AND THE CONSTRUCTION OF IMPROVEMENTS THEREIN, AT AN ESTIMATED MAXIMUM COST OF \$17,769,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$17,769,000 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

and

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

WHEREAS, the Town has determined that the scope of such original capital project be modified to include additional improvements in Water District No. 2 (the "District"); and

WHEREAS, the Town Board directed Clark Patterson Lee to prepare a revised map, plan and report to include such improvements; and

WHEREAS, the Town Board determined that such improvements should be made and adopted an Order modifying such project plan on February 22, 2018; and

WHEREAS, the Town Board wishes to modify the Original Bond Resolution for the primary purpose of modifying the scope of the project to include such improvements and to make other modifications to the Original Bond Resolution as may be consistent with law; and

WHEREAS, the estimated maximum cost of the project and the amount of serial bonds authorized for such project remains the same; and

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

WHEREAS, the Town Board now wishes to amend and restate (in its entirety) the original

July 19, 2017 Bond Resolution for the reasons identified above, and to make other determinations to the Original Bond Resolution as may be consistent with law; and

NOW, THEREFORE,

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

SECTION 1. The Town is hereby authorized to undertake a certain water system capital improvements project, such work to generally consist of (but not be limited to) the construction and installation of approximately 245,000 linear feet of 8-inch and 12-inch diameter water main, installation of a 500,000 gallon water tank and a trihalomethane (THM) removal system and the installation of a chlorine booster pump, as well as other such improvements as more fully identified in (or contemplated by) such map, plan and report prepared in connection with such project, including land or rights in land, stream and road crossings, furnishings, all related right-of-way costs, new service installation, site work, water tank and other ancillary work, including hydrants, valves, fittings, connections, fill, services, appurtenances, preliminary costs and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The estimated maximum cost of said purpose is \$17,769,000.

SECTION 2. The Town Board plans to finance the estimated maximum cost of said purpose by: a) the issuance of serial bonds in an aggregate principal amount not to exceed \$17,769,000 of the Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received including, but not limited to, a USDA Rural Development Agency grant, and unless paid from other sources or charges, the cost of the water improvement will be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the proposed District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of the benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 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 said bonds.

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

SECTION 6. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall 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, the costs of the Project shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the area benefited by said improvements, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion

to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of said 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 Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after July 19, 2017 or within 60 days prior to the earlier of (a) July 19, 2017 or (b) the date of any earlier expression by the Town of its intent to reimburse such expenditures) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration (or reaffirmation) of the Town's original declaration of its "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

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

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

SECTION 11. The Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation

Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary.

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

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

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

(b) the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with

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

2. Such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 14. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said Town and designated as the official newspaper of said Town for such publication.

SECTION 15. Nothing in this amendment shall affect the validity of the original July 19, 2017 bond resolution, or any action taken thereunder and any such actions are hereby ratified.

SECTION 16. This Resolution is effective immediately.

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

Second By: Councilman Coughlin

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

MOTION CARRIED by unanimous vote (5-0)

ABSTRACT 3-2018

MOTION Councilman Chamberlain, second Councilman Coughlin to approve the following:

General Fund	43-59	\$21,802.67
Highway	15-29	\$13,021.07
Water District 2	2	\$22,550.75
	TOTAL	\$57,374.49

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

MOTION CARRIED by unanimous vote (5-0)

COMMITTEE REPORTS

Building and Grounds

No report.

Zoning Board

Councilman Chamberlain reported that ZEO/CEO Mikolajczyk attended the last meeting. He let the committee know that the fees and permits are approved by a resolution from the Town Board. They discussed updating the wording on the applications for fences. The code for a demolition was also reviewed.

Planning Board

Councilman Coughlin did not attend the meeting due to vacation.

GAM

Councilwoman Zambito did not attend the meeting.

Cemetery

Councilman Chamberlain stated that he will meet with Steve Davis next week regarding his contract. Supervisor Hynes requested to attend the meeting as well. Highway Superintendent Yungfleisch advised the Board that he moved all of the wreaths and flowers from the truck bay to the small building at the cemetery. Mr. Davis is aware.

DEPARTMENT REPORTS

Highway

- Highway Superintendent Yungfleisch reported that he has a price of \$10k toward the upgrade of the new loader for this year.
- The town still has plenty of salt left. The airports reported receiving 100 inches of snow this year, that should increase the funds we receive from the County for the snow removal and salt.
- Mr. Palmer, School Superintendent contacted Supervisor Hynes regarding the fuel pump card reader. Councilwoman Marshall will contact Mr. Palmer.

Assessor

No report.

ZEO/CEO

The Board would like ZEO/CEO Mikolajczyk's report emailed to them each month.

Town Clerk

- The monthly report was shared amongst the Board.
- Taxes are going well.
- Trisha will be attending the NYS Town Clerks Association annual conference April 22-25th.

Supervisor

- Councilman Coughlin and Supervisor Hynes will assess the remaining easements next week and make arrangements to deliver in person.
- Supervisor Hynes asked Councilwoman Zambito to make arrangements with the Court Clerk to complete the annual audit of court records.

Councilpersons

Councilwoman Marshall made mention that the town of Clarendon will be putting their Water District to a vote for all land owners.

Councilman Chamberlain stated he participated in the school's advisory committee for the annual budget. He offered a few thoughts about the process.

OLD BUSINESS

Blue Sky Tower Lease Agreement

Dave Schubel reviewed this agreement quickly and saw a few items missing. He will thoroughly review and contact Blue Sky with his recommendations. Highway Superintendent Yungfleisch will need someone from Blue Sky to show him exactly where they plan to place the tower.

Building & Zoning Permit Fee Schedule

The Board agreed that ZEO/CEO Mikolajczyk has helped in aligning the fees with nearby towns. The new fee schedule will be added to the website and an article will be added to the Batavia Daily News.

Supervisor Hynes made a **MOTION** to adopt the new fee schedule as written.

Second By: Councilman Chamberlain

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

MOTION CARRIED by unanimous vote (5-0)

Dog Enumeration

After a lengthy discussion regarding the enumeration, Councilwoman Zambito made a **MOTION** to forego the tri-annual dog enumeration scheduled for 2018.

Second By: Councilman Chamberlain

Ayes: Chamberlain, Coughlin, Hynes, Zambito

No: Marshall

MOTION CARRIED (4-1)

NEW BUSINESS

Millennium Computers Quote

A quote from Millennium Computers was presented to the Town Board; the quote is for two (2) new workstations for the Supervisor and Town Clerk's office at \$648.00 each and a laptop for the Town Clerk at \$698.00. Also, MS Office, Word, Excel and Power Point for each of the new pieces at \$168.00 each and a monitor for the Supervisor at \$157.00 (\$2,656.00). There is also a fee of \$95 an hour for set up. Monthly services through Pivot would include 24x7 monitoring, off site backup, managed anti-virus, patch management and remote repair for \$100 a month.

Discussion ensued regarding web hosting. Millennium stated that it could be an easy transition from the current web host as long as they work with them. Millennium will call our current host to inquire.

MOTION Councilwoman Marshall, second by Supervisor Hynes to approve the purchase of the hardware, software and monthly Pivot subscription.

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

MOTION CARRIED by unanimous vote (5-0)

ADJOURNMENT

MOTION was offered from Councilwoman Marshall, second by Councilman Chamberlain to adjourn the meeting at 8:23 P.M.

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

MOTION CARRIED by unanimous vote (5-0)

Respectfully Submitted,

Trisha Werth
Town Clerk