

**Town of Elba
Regular Town Board Meeting
October 11, 2018**

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

Those in attendance included:

Supervisor Hynes
Councilman Chamberlain
Councilman Coughlin
Councilwoman Marshall

Others Present:

Town Clerk Werth
Superintendent of Highways Yungfleisch

Minutes of September 13, 2018 Town Board Meeting:

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

Ayes: Chamberlain, Coughlin, Hynes, Marshall

MOTION Carried

Minutes of October 3, 2018 Special Town Board Meeting:

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

Ayes: Chamberlain, Coughlin, Hynes, Marshall

MOTION Carried

RESOLUTION NO. 31-2018:

Councilman Chamberlain offered the following:

**INTRODUCE PROPOSED LOCAL LAW NO. 2 OF 2018 AND
TO SCHEDULE A PUBLIC HEARING**

WHEREAS, the Town Board of the Town of Elba, New York desires to consider adopting legislation to override the limit on the amount of real property taxes that may be levied by the Town of Elba pursuant to General Municipal Law § 3-c, and to allow the Town of Elba to adopt a town budget for fiscal year 2019 that requires a real property tax levy in excess of the tax levy limit, also known as Town of Elba Local Law No. 2 of 2018.

NOW, THEREFORE, BE IT RESOLVED by the Town Board for the Town of Elba, New York that proposed Local Law No. 2 of 2018 entitled "A Local Law to Override the Tax Levy Limit Established in General Municipal Law § 3-c", which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, be and the same hereby is introduced for adoption; and

BE IT FURTHER RESOLVED that said proposed Local Law was given to the members of this Town Board on this date and remain with them and a copy thereof be kept on file in the office of the Town Clerk until November 8, 2018, and that a public hearing be held before this Town Board on the 8th day of November 2018 at 7:00 p.m. at the Elba Town Hall, 7 Maple Avenue, Elba New York, on the advisability of enacting said proposed Local Law; and

BE IT FURTHER RESOLVED that the Town Clerk shall cause notice of said public hear to be published once in the The Daily News at least five (5) days prior to the date of said public hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk’s Office.

Second by: Councilman Coughlin
Ayes: Chamberlain, Coughlin, Hynes, Marshall
APPROVED by unanimous vote (4-0)

NOTICE OF PUBLIC HEARING

Please Take Notice that the Elba Town Board will conduct a public hearing at the Elba Town Hall, 7 Maple Avenue, Elba, New York on Thursday, November 8, 2018 at 7:00 p.m. on the enactment of a Local Law known as Local Law No. 2 of 2018 to Override the Tax Levy Limit Established in General Municipal Law § 3-c, which said Local Law may be summarized as follows: It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Elba pursuant to General Municipal Law § 3-c, and to allow the Town of Elba to adopt a budget for the fiscal year 2019 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law § 3-c.

At such public hearing, all persons, either for or against the same, shall be heard.

By Order of the Elba Town Board

Trisha Werth, Town Clerk

Local Law Filing New York State Department of State
99 Washington Avenue, Albany, NY 12231

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

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

~~County~~
~~City~~ of Elba, Genesee County, New York
~~Town~~
~~Village~~

Local Law No. 2 of the year 2018.

A local law to override the tax levy limit established in General Municipal Law 3-c
(Insert Title)

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

~~County~~
~~City~~ of Elba, Genesee County, New York as follows:
~~Town~~
~~Village~~

Section 1. Legislative Intent

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the
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Town of Elba pursuant to General Municipal Law §3-c, and to allow the Town of Elba to adopt a budget for the fiscal year 2019 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the town board to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the town board.

Section 3. Tax Levy Limit Override

The Town Board of the Town of Elba, County of Genesee, is hereby authorized to adopt a budget for the fiscal year 2019 that requires a real property tax levy in excess of the amount otherwise proscribed in General Municipal Law, §3-c.

Section 4. Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its separation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective Date

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

(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. ____ of 2018, of the (~~County~~) (~~City~~) (Town) (~~Village~~) of Elba, New York was duly passed by the Town Board on _____, 2018, 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. 2 of 2018 of the (~~County~~) (~~City~~) (Town) (~~Village~~) Elba was duly passed by the _____ on _____ 20____, and was (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 2010, 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 2018 of the (~~County~~) (~~City~~) (Town) (~~Village~~) of _____ was duly passed by the _____ on _____ 2018, and was by the _____ on _____ 2018. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 20____, in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2018 of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of _____ was duly passed by the Board of Trustees (Name of Legislative Body) on _____ 2018, and was (approved) ~~(not disapproved)~~ ~~(repassed after disapproval)~~ by the on _____ 2018. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 2012, 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)

Trisha Werth
Town Clerk, Town of Elba

Date:

RESOLUTION #32-2018:

Councilman Chamberlain offered the following:

TO ADOPT 2019 PRELIMINARY TOWN BUDGET

RESOLVED, the Elba Town Board hereby adopts the Preliminary Town Budget for 2019; and be it further

RESOLVED, that the 2019 Preliminary Town Budget hereby be filed in the Office of the Elba Town Clerk.

Second by: Councilman Coughlin

Ayes: Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 33-2018:

Councilman Coughlin offered the following:

CALLING FOR PUBLIC HEARING ON THE 2019 TOWN BUDGET

RESOLVED, the Elba Town Board hereby authorizes and orders that a Public Hearing on the Preliminary Town Budget for 2019 be conducted at the Elba Town Hall, 7 Maple Avenue, Elba, New York, beginning at 7:05 p.m. on Thursday, November 8, 2018 at which time and place all interested persons will be heard; and be it further

RESOLVED, that the Town Clerk is hereby authorized and directed to publish such public notice of the subject Public Hearing as required by law.

Second by: Councilwoman Marshall

Ayes: Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (4-0)

**NOTICE OF PUBLIC HEARING
ON THE 2019 TOWN BUDGET**

PUBLIC NOTICE IS HEREBY GIVEN that the Preliminary Budget of the Town of Elba for fiscal year 2019 has been completed and filed in the Office of the Town Clerk of the Town of Elba, where is it available for public inspection during regular business hours.

Notice is also given that the Town Board of the Town of Elba will hold a Public Hearing on the Preliminary Budget at the Elba Town Hall, 7 Maple Avenue, Elba, New York beginning at 7:05 p.m. on Thursday, November 8, 2018 at which time and place any person will be heard in favor of or in opposition to any item or items contained therein.

Public Official Salaries are as follows:

Supervisor	\$7,985.00
Councilperson (4)	\$1,943.00
Town Clerk/Tax Collector	\$28,787.00
Highway Superintendent	\$57,000.00
Town Justice (2)	\$8,731.00

By Order of the Elba Town Board

Trisha Werth, Town Clerk

RESOLUTION #34-2018:

Councilman Chamberlain offered the following:

**SETTING A PUBLIC HEARING RELATIVE TO LEASE AGREEMENT WITH BLUE SKY
TOWER II, LLC**

LEGAL NOTICE

PLEASE TAKE NOTICE THAT, pursuant to Town Law section 64 (2), the Town of Elba Town Board will conduct a public hearing on November 8, 2018 at 7:10 p.m. at the Elba Town Hall, 7 Maple Avenue, Elba, New York on the adoption of a resolution authorizing approval and execution of a Lease Agreement between the Town of Elba and Blue Sky Towers II, LLC for lease of a tract of land situate on Hundredmark Road (tax map no. 14.-2-18.1) for the erection of a cell tower thereon, said Lease Agreement having an initial term of ten years with an option to extend the term for four successive additional periods of ten years each, with an initial annual rent of \$14,400.00 and percentage increases thereafter. At such public hearing, all persons, either for or against the same, shall be heard.

By Order of the Elba Town Board

Trisha Werth, Town Clerk

Second by: Councilman Coughlin

Ayes: Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (4-0)

RESOLUTION #35-2018:

Councilman Coughlin offered the following:

ACCEPTANCE OF ONLINE TAX PAYMENTS HAMER ENTERPRISES

WHEREAS, Genesee County Treasurer's Office is contracting with Hecorp, Incorporated, DBA: Hamer Enterprises for viewing and posting the Town/County Tax Bills online; and

WHEREAS, each Town has been offered to contract with Hamer Enterprises to accept Online Tax Payments (agreement attached);

WHEREAS, there are convenience fees associated with this service that will be paid by the taxpayer that utilizes this service. There is no cost to the Town.

NOW, THEREFORE, BE IT RESOLVED the Elba Town Board authorizes the Acceptance of Online Tax Payments Internet Processing Professional Services Agreement between the Town of Elba and Hamer Enterprises, a copy of which is made part of the Town Board Minutes; and be it

FUTHER RESOLVED, the Town Supervisor is hereby authorized and directed to execute this Agreement.

Second by: Councilwoman Marshall

Ayes: Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (4-0)

ABSTRACT 10-2018

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

General Fund	211-231	\$ 42,452.35
Highway	105-117	\$ 53,118.40
Water District 2	26-27	<u>\$171,874.00</u>
	TOTAL	\$267,444.75

Ayes: Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (4-0)

COMMITTEE REPORTS

Building and Grounds

No report.

Zoning Board

The County turned down the application for a use variance to keep chickens at 29 North Main Street. The chickens are no longer there.

There will be a Public Hearing at the next ZBA meeting for a pond variance on Lockport Road.

ZEO/CEO Mikolajczyk had a few questions regarding lots on record. He will be investigating this.

Planning Board

No report.

GAM

The Genesee County Legislature conducted a Public Hearing on mandated public sector shared service plans. All towns and villages are in favor with the exception of one.

The sales tax renewal agreement was discussed. The towns and villages will receive payments from the County at a level capped at the 2018 sales tax distribution amount of 34%.

Discussion ensued at the GAM meeting regarding the State mandate on a new jail. The estimated cost of this project is \$50 million. A committee has been formed to work out the details.

Cemetery

The town received a request from a former resident to buy her cemetery plot back. Town Clerk Werth sent the request to Town Attorney David Schubel to review. Mr. Schubel's thought is to develop a policy. We will investigate policies to bring back next month.

Publicity

A request to propose an offer on cleaning the Town Hall's carpet was received from a resident. There is no interest at this time.

DEPARTMENT REPORTS

Highway

- The salt has arrived and is mixed together.

- The MEO's are helping the County through shared service agreements.
- There are a couple of trees that will need to be cut soon.
- The Village would like help in wedging Chapel Street soon.
- MEO's and Mr. Yungfleisch will start preparing the trucks and equipment for winter soon.
- There is a headstone in the shop from a movie that was filmed in Town. Mr. Yungfleisch will give it to the Historical Society.
- Mr. Yungfleisch is not interested in the truck that he checked out earlier this month. He will get the specifications for a truck similar to the last one and see where prices are.

Councilwoman Marshall asked about the reflectors on Edgerton Road – Mr. Yungfleisch stated these are in areas where there is a dip in the road or a culvert pipe nearby.

Councilwoman Marshall also asked about the pink flags along the roadway throughout town. These are from the soil bores taking place.

Assessor

No report.

ZEO/CEO

Mr. Mikolajczyk's report was emailed and is also available in the Town Clerk's office.

Town Clerk

Town Clerk Werth reported that she took in \$1,390.59 and remitted \$1,325.09 to the Supervisor for local share, \$43.00 to NYS Ag. & Markets for spay/neuter program and \$22.50 to NYS DOH. A total of three new dogs were licensed and 36 licenses were renewed. We also had a total of 48 conservation customers.

We continue to collect the Water Service Applications for the Town of Batavia. A total of 11 residents applied in September.

Supervisor

Supervisor Hynes reported that she and Barry Flansburg met with Matt Smith and Jeff Smith from Municipal Solutions and Jason Foote of CPL last week to review the numbers for WD2. Phase 3 is currently out to bid and Phase 4 will go out as soon as the property is settled with the lawyers. Therefore, they recommend the Town to finish borrowing the remainder of the \$8 million for WD2.

Councilpersons/Miscellaneous

Councilwoman Marshall mentioned the Public Hearing for the Fire District on October 16th. In the future she would like to see the Town Board and Fire District have conversations beforehand to keep everyone in the loop. Supervisor Hynes and Councilman Coughlin will try to attend their Public Hearing.

OLD BUSINESS

None.

NEW BUSINESS

Mr. Yungfleisch stated the fax machine has not been working properly. He will have someone come in and look at the lines.

Mr. Yungfleisch spoke with Randsco today. They will be returning on October 17th. They will finish Phase 1 and then start working on the Town roads of Phase 2 and then move onto the State highways.

ADJOURNMENT

MOTION was offered from Councilman Chamberlain second by Supervisor Hynes to adjourn the meeting at 8:02 p.m.

Ayes: Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (4-0)

Respectfully Submitted,

Trisha Werth
Town Clerk