

**Town of Elba
Regular Meeting
October 10, 2019**

Supervisor Hynes called the meeting to order at 7:00 p.m.; followed by the Pledge to the Flag.

Those in attendance included:

Supervisor Hynes
Councilman Chamberlain
Councilman Coughlin
Councilwoman Marshall
Councilwoman Zambito

Others Present:

Town Clerk Werth
Superintendent of Highways Yungfleisch
Cathy Sequin, Resident
Larry Sequin, Resident

Minutes of September 12, 2019 Town Board Meeting:

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

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

MOTION CARRIED by unanimous vote (5-0)

Minutes of September 25, 2019 Special Town Board Meeting

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

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

MOTION CARRIED by unanimous vote (5-0)

RESOLUTION #29-2019:

Councilwoman Zambito offered the following:

**INTRODUCE PROPOSED LOCAL LAW NO. 1 OF 2019 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 2020 that requires a real property tax levy in excess of the tax levy limit, also known as Town of Elba Local Law No. 1 of 2019.

NOW, THEREFORE, BE IT RESOLVED by the Town Board for the Town of Elba, New York that proposed Local Law No. 1 of 2019 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 7, 2019, and that a public hearing be held before this Town Board on the 7th day of

November 2019 at 6:45 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, Zambito
APPROVED by unanimous vote (5-0)

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 7, 2019 at 6:45 p.m. on the enactment of a Local Law known as Local Law No. 1 of 2019 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 2020 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. 1 of the year 2019.

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 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 2020 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 2020 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 it 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. 1 of 2019, of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of Elba, New York was duly passed by the Town Board on _____, 2019, 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. 1 of 20 19 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 _____ 2019, 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 2019 of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of _____ was duly passed by the _____ on _____ 2019, and was by the _____ on _____ 2019. 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 2019 of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of _____ was duly passed by the Board of Trustees (Name of Legislative Body) on _____ 2019, and was (approved) ~~(not disapproved)~~ ~~(repassed after disapproval)~~ by the on _____ 2019. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 2019, 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 #30-2019:

Councilman Chamberlain offered the following:

TO ADOPT 2020 PRELIMINARY TOWN BUDGET

RESOLVED, the Elba Town Board hereby adopts the Preliminary Town Budget for 2020; and be it further

RESOLVED, that the 2020 Preliminary Town Budget hereby be filed in the Office of the Elba Town Clerk.

Second by: Supervisor Hynes

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 31-2019:

Councilwoman Marshall offered the following:

CALLING FOR PUBLIC HEARING ON THE 2020 TOWN BUDGET

RESOLVED, the Elba Town Board hereby authorizes and orders that a Public Hearing on the Preliminary Town Budget for 2020 be conducted at the Elba Town Hall, 7 Maple Avenue, Elba, New York, beginning at 6:50 p.m. on Thursday, November 7, 2019 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: Councilman Chamberlain

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

APPROVED by unanimous vote (5-0)

**NOTICE OF PUBLIC HEARING
ON THE 2020 TOWN BUDGET**

PUBLIC NOTICE IS HEREBY GIVEN that the Preliminary Budget of the Town of Elba for fiscal year 2020 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 6:50 p.m. on Thursday, November 7, 2019 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	\$8,185.00
Councilperson (4)	\$1,943.50
Town Clerk/Tax Collector	\$29,507.00
Highway Superintendent	\$58,425.00

Town Justice (2)	\$8,950.00
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By Order of the Elba Town Board

Trisha Werth, Town Clerk

ABSTRACT 10-2019

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

General Fund	209-235	\$27,567.90
Highway	107-119	\$8,928.81
Water District 2	53-56	\$409,580.60
	Total	\$446,077.31

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:

- There were a total of four Public Hearings at the October meeting. They included four barns with either side, rear or front variances on Snyder Road, Ridge Road, Weatherwax Road and Chapel Street. All were approved at their meeting with the exception of the Chapel Street property. The Committee met earlier today at the property and used a string line to determine the proper dimensions. The builder moved the stakes to adapt the three foot discrepancy. All approved.
- Ms. Barbie Starowitz attended the ZBA meeting and continues to have concerns regarding an alleged multi family dwelling at 7351 Bank Street Road. She stated that there were recently three 911 calls at this property that she attended with the Fire Department. The homeowner had applied for a variance and was sent to the Genesee County Planning Board. He was told he would need to increase the septic, parking, etc. ZEO/CEO Mikolajczyk has followed through on the complaint by speaking to the resident. The resident states it is not a multi family dwelling. Supervisor Hynes will discuss with Mr. Mikolajczyk, our Town Attorney, Dave Schubel and Planning Board Chair Chuck Hoover to ensure that the Town Board is performing their due diligence on this complaint.

Planning Board

Councilman Coughlin reported:

- Mr. Kriwox brought in the mylar for their property on Barrville Road. Therefore they approved the land separation request.
- Planning Board Member, Brad Mudrzynski presented a draft copy of the solar project they have been working on. Once they have reviewed it will be passed onto the ZBA and Town Board.

GAM

No report.

Cemetery

No report.

Publicity

No report.

DEPARTMENT REPORTS

Highway

Superintendent of Highways Yungfleisch reported:

- The pick up truck is in the shop, transmission issues.
- One ton truck is also in the shop.
- Will pave parts of Norton, Luddington and Bridge Roads in the next week.
- The salt we have in the shed needs to last until January 1st.
- The MEO's will install the snow fence once it dries up.
- The new truck will be here week.
- Received six resumes for the MEO position.
 - Councilwoman Marshall suggested the Town look at adopting a resolution that an MEO can live in a town adjacent to the Town of Elba, in case of a shortage of applicants residing in the town.

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 \$2,072.46 and remitted \$1,998.96 to the Supervisor for local share, \$51.00 to NYS Ag. & Markets for spay/neuter program and \$22.50 to NYSDOH.

Councilwoman Marshall recommended we look into purchasing a copier for the Town versus having a lease with Toshiba. Town Clerk Werth will look into this.

Supervisor

- The November meeting will take place on November 7th, starting at 6:45 p.m. with three Public Hearings.
- Rural Development gave the go ahead to proceed with Phase 5. Randsco will start on Lockport Road within the next week.
- Judge Adam Howard submitted his letter of resignation effective November 6, 2019. The Republican Committee is meeting on October 21st to interview possible candidates to fill the position. This person will need to be appointed at the November meeting in order to attend the week long training in Albany starting December 2nd. Judge King has asked for additional compensation for the extra time he will put in covering Judge Howard.
 - Councilwoman Marshall asked in the numbers were still down in court cases? She also asked if there was a possibility of consolidating with Oakfield court. Supervisor Hynes will inquire.
- Lee Walters, CPA finished the independent audit for Water District 2 and sent it on to the Federal Government. Copies were provided to Board members. Mr. Walters will provide this audit annually as long as the project is taking place.

Councilpersons

- Councilwoman Zambito asked if we heard about the signage at the bank. Supervisor Hynes stated she spoke with Town Attorney, Dave Schubel and there is no conflict of interest for the Town to have M&T on the same sign.
- Councilwoman Marshall suggested that a notice go out from Mr. Flansburg, Assessor with the changes for the Agricultural Assessment requirements for March 1, 2020.
- Councilwoman Marshall had a chance to assess a few policies. She stated we are not in bad shape as we have all the policies that are required. The Town Board reviewed the following policies:
 - Cell Phone Policy – OK
 - Town Email – Town Clerk Werth to speak with Millennium for a price on adding Town Board members to Town email.
 - Procurement Policy – Superintendent of Highways Yungfleisch to review.
 - Code of Ethics – Adopt Comptroller’s policy.

It was also discussed that the Comptroller offers information for Town Officials. The Town Board should review these policies each year at the annual meeting.

- Councilman Chamberlain stated he researched the signs in Barre regarding Windmills “lowering your taxes”. This is very misleading to taxpayers. Barre and Byron each have solar projects coming through their town and they do not have solar plans. This should encourage us to put a plan in place soon. We need to consider this for long range.

ADJOURNMENT

MOTION was offered from Councilman Chamberlain second by Councilman Coughlin to adjourn the meeting at 8:16 p.m.

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

MOTION CARRIED by unanimous vote (5-0)

Respectfully Submitted,

Trisha Werth
Town Clerk