

**Town of Elba  
Regular Meeting  
November 7, 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  
Chuck Hoover, Planning Board Chairman  
Brad Mudrzynski, Planning Board  
Anthony Zambito, Resident  
Mark Meyerhofer, Spectrum Northeast, LLC

**Public Hearing Local Law #1 of 2019 – Override Tax Levy Limit** – The Supervisor called the Public Hearing to Order for Local Law #1 of 2019 – Override Tax Levy Limit at 6:45 P.M. - Minutes for public hearing entered separately.

**Public Hearing 2020 Annual Town Budget** – The Supervisor called the Public Hearing to Order for 2020 Annual Town Budget at 6:50 P.M. - Minutes for public hearing entered separately.

**Public Hearing Granting a Cable Television Franchise Agreement Between the Town of Elba and Spectrum Northeast, LLC** – The Supervisor called the Public Hearing to Order for Granting a Cable Television Franchise Agreement Between the Town of Elba and Spectrum Northeast, LLC at 6:55 P.M. - Minutes for public hearing entered separately.

**Minutes of October 10, 2019 Town Board Meeting:**

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

**Ayes:** Chamberlain, Coughlin, Hynes, Marshall, Zambito

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

**Public Participation**

Chuck Hoover, Planning Board Chairman and Brad Mudrzynski, Member discussed the Solar Energy Law. They have taken the NYS Solar Energy Law as a guideline, adding information for Elba where pertinent. After discussion amongst those in attendance they will take this back to the Planning Board and fix the verbiage to keep options open for the habitat as technology changes. They will also discuss adding the NYSEDA Solar Installations in Agricultural Districts. They will pass this back to the Town Board and the Town attorney to review and make a resolution.

At 7:20 p.m. Supervisor Hynes made a **MOTION**, second by Councilwoman Marshall to go into Executive Session to discuss an appointment position.

Councilwoman Marshall made a **MOTION**, second by Councilman Chamberlain at 7:35 p.m. to return to regular session.

**RESOLUTION #32-2019:**

Councilman Chamberlain offered the following:

**RESOLUTION ADOPTING LOCAL LAW No. 1 of 2019 TO OVERRIDE  
THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW §3-c**

**WHEREAS**, proposed Local Law No. 1 of 2019 of the Town of Elba entitled “Local Law to Override the Tax Levy Limit Established in General Municipal Law §3-c”, which proposed Local Law in its final form was presented to the Town Board at the meeting held October 10, 2019, and a copy thereof was kept with the Town Clerk and copies provided to Town Board Members at said meeting; and

**WHEREAS**, a public hearing on the advisability of enacting said proposed Local Law was held on November 7, 2019, 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 Elba, New York is of the opinion that adoption of said proposed Local Law No. 1 of 2019 is in the best interest of the Town of Elba, New York.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Elba, New York that said proposed Local Law No. 1 of 2019 entitled “Override the Tax Levy Limit Established in General Municipal Law §3-c” be and the same hereby is adopted; and

**BE IT FURTHER RESOLVED**, that a certified copy of said Local Law No 1 of 2019 be filed with the New York State Secretary of State in accordance with the Law.

**Second by:** Councilman Coughlin

**Ayes:** Chamberlain, Coughlin, Hynes, Marshall, Zambito

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

**RESOLUTION NO. 33-2019:**

Councilman Coughlin offered the following:

**ADOPTION OF 2020 TOWN ANNUAL BUDGET**

**WHEREAS**, the Elba Town Board hereby adopts the Town Budget for 2020; and be it further

**NOW, THEREFORE, BE IT RESOLVED**, that the Elba Town Board approves the budget as prepared with a copy attached hereto.

**Second by:** Councilman Chamberlain

**Ayes:** Chamberlain, Coughlin, Hynes, Marshall, Zambito

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

**RESOLUTION NO. 34-2019:**

Councilwoman Zambito offered the following:

**RESOLUTION GRANTING A CABLE TELEVISION FRANCHISE  
AGREEMENT BETWEEN THE TOWN OF ELBA AND SPECTRUM NORTHEAST, LLC**

**WHEREAS**, an application has been duly made to the Board of the **Town of Elba, County of Genesee**, New York, by **Spectrum Northeast LLC**, an indirect subsidiary of Charter Communications, a limited liability company organized and existing in good standing under the laws of State of Delaware doing

business at 2604 Seneca Avenue, Niagara Falls, NY 14305, for the approval of a renewal agreement for Spectrum's cable television franchise for fifteen (15) years commencing with the date of approval by the Public Service Commission commencing with the date of approval by the Public Service Commission. The Franchise Renewal Agreement would bring the franchise into conformity with certain provisions of the Federal Cable Communications Policy Act of 1984, as amended, and certain court rulings.

**WHEREAS**, a public hearing was held in the Town of Elba, New York on November 7, 2019 at 6:55 P.M. and notice of the hearing was published in the Batavia Daily News on October 31, 2019.

**NOW, THEREFORE, BE IT RESOLVED** the Board of the Town of Elba finds that:

1. Spectrum Northeast LLC has substantially complied with the material terms and conditions of its existing franchise and with applicable law; and
2. Spectrum Northeast LLC has the financial, legal and technical ability to provide these services, facilities and equipment as set forth in its proposal attached; and
3. Spectrum Northeast LLC can reasonably meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

**BE IT FURTHER RESOLVED** that the Board of the **Town of Elba** hereby grants the cable television franchise of Spectrum Northeast LLC and the **Town of Elba** for fifteen (15) years commencing with the date of approval by the Public Service Commission and expiring fifteen (15) years hence.

**BE IT FURTHER RESOLVED** that the Board of the **Town of Elba** hereby confirms acceptance of this Franchise Renewal Agreement.

**Second by:** Councilman Coughlin

**Ayes:** Chamberlain, Coughlin, Hynes, Marshall, Zambito

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

**RESOLUTION #35-2019:**

Councilman Chamberlain offered the following:

**AUTHORIZE DELINQUENT WATER BILL  
TO BE RE-LEVIED ON THE 2020 WARRANT**

**WHEREAS**, the Town Clerk has received a list of all property owners who owe for water rents in Water District #1 to the Town of Batavia; and

**WHEREAS**, Section 229-15 (c) of Town Law stipulates that such amounts owing shall be levied against the property to which the service is rendered.

**NOW, THEREFORE, BE IT RESOLVED**, the amount of \$1,852.32, or as may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the following individuals:

- Geralyn Robinson - \$164.47
- Deborah Fries - \$1313.03
- Ronald Shultz - \$126.53
- Marie Lamkin - \$47.97
- Marie Lamkin - \$63.26
- Marc Cwiklinski - \$137.06

**Second by:** Supervisor Hynes  
**Ayes:** Chamberlain, Coughlin, Hynes, Marshall, Zambito  
**APPROVED by unanimous vote (5-0)**

**RESOLUTION #36-2019:**

Councilman Chamberlain offered the following:

**APPROVAL OF OFFICIAL UNDERTAKING FOR TAX COLLECTION**

[The Official Undertaking/Bond must be filed with the County Clerk and have attached thereto the approval of the Town Board as set forth below.]

**APPROVAL OF THE ELBA TOWN BOARD**

We, the undersigned members of the Town Board of the Town of Elba, County of Genesee, State of New York, do hereby approve the attached undertaking or bond as to its form, manner of execution, amount and sufficiency thereof, and to the sureties names thereon. Said undertaking or bond shall be conditioned that the collector of the taxes shall well and truly keep, pay over and account for all moneys and property coming into her/his hands as such collector.

Witnessed this 7th day of November, 2019.

Supervisor \_\_\_\_\_  
Council Member \_\_\_\_\_  
Council Member \_\_\_\_\_  
Council Member \_\_\_\_\_  
Council Member \_\_\_\_\_

[Approval may also be in the form of a copy of the Resolution with the corresponding certification of the Town Clerk.]

Pursuant to Sections 25, 35, 36 and 37 of the Town Law of the State of New York

**Second by:** Councilwoman Zambito  
**Ayes:** Chamberlain, Coughlin, Hynes, Marshall, Zambito  
**APPROVED by unanimous vote (5-0)**

**RESOLUTION #37-2019:**

Councilman Coughlin offered the following:

**Resolution Adopting Post-Issuance Tax Compliance Procedures for Tax-Exempt Bond and Note Issues (per Prevailing IRS Expectations)**

**RESOLUTION, DATED NOVEMBER 7, 2019, OF THE TOWN BOARD OF THE TOWN OF ELBA, GENESEE COUNTY, NEW YORK (THE "TOWN") ADOPTING UPDATED POST-ISSUANCE TAX COMPLIANCE PROCEDURES**

WHEREAS, the Internal Revenue Service has issued regulations requiring issuers of tax-exempt obligations to certify on various forms that they actively monitor compliance with federal tax rules following the issuance of such obligations; and

WHEREAS, the Town is a periodic issuer of tax-exempt obligations and thus is subject to the aforementioned compliance requirements which are critical for the preservation of the preferential tax status of those obligations; and

WHEREAS, it is therefore in the best interest of the Town to adopt formal written procedures to ensure such compliance and to designate an official responsible for ensuring that such procedures are followed; and

WHEREAS, the Town has previously adopted post-issuance tax compliance procedures (the “Prior Procedures”); and

WHEREAS, it was intended that the Prior Procedures would be periodically updated and supplemented; and

WHEREAS, Hodgson Russ LLP, as bond counsel to the Town, has prepared (and has recommended that the Town adopt) updated and more comprehensive post-issuance tax compliance procedures;

NOW THEREFORE, BE IT RESOLVED, that the Town hereby adopts the updated post-issuance tax compliance procedures that are attached hereto as “Schedule A” and resolves to be governed thereby; and be it further

RESOLVED, that the below Schedule A will be placed in its entirety in the official records, files, and minutes of the Town and adhered to going forward; and be it further

RESOLVED, that this resolution shall take effect immediately upon its adoption.

#### **Schedule A**

## **TOWN OF ELBA, GENESEE COUNTY, NEW YORK**

### **Post-Issuance Tax Compliance Procedures for Tax-Exempt Bonds and Notes**

#### **Statement of Purpose**

These Post-Issuance Tax Compliance Procedures (the “Procedures”) set forth specific procedures of the **Town of Elba, Genesee County, New York** (the “Issuer”) designed to monitor, and ensure compliance with, certain requirements of the Internal Revenue Code of 1986, as amended (the “Code”) and the related Treasury regulations, promulgated thereunder (the “Treasury Regulations”) in connection with the Issuer’s issuance of tax-exempt bonds and notes (“Obligations”).

These Procedures describe various systems designed to identify, on a timely basis, facts relevant to demonstrating compliance with the requirements that must be satisfied subsequent to the issuance of Obligations to ensure that the interest on such Obligations is eligible for exclusion from gross income for federal income tax purposes. The federal tax law requirements applicable to the Obligations will be described in the tax questionnaire and/or tax certificate prepared by bond counsel and signed by officials of the Issuer. These Procedures establish a permanent, ongoing structure of practices that will facilitate compliance with the requirements for individual borrowings.

To ensure compliance with applicable federal tax requirements, the Issuer must monitor the various direct and indirect uses of proceeds of the obligation and the investment of such proceeds, including but not limited to:

- (1) Monitoring the use of financed property over the life of the obligation.
- (2) Determining the sources of debt service payments and security for the obligation.
- (3) Calculating the percentage of any nonqualified use of the financed property.
- (4) Calculating the yield on investments of proceeds.
- (5) Determining appropriate restrictions on investments.
- (6) Determining the amount of any arbitrage on the investments.
- (7) Calculating any arbitrage rebate payments that must be paid to the U.S. Treasury.

The Issuer recognizes that compliance with the pertinent law is an on-going process, necessary during the entire term of the Obligations. Accordingly, the implementation of the Procedures will require on-going monitoring and consultation with bond counsel and the Issuer's accountants and municipal advisor.

### **General Procedures**

The following procedures relate to monitoring post-issuance tax compliance generally.

- A. The **Town Supervisor (currently Donna Hynes)** shall be the "Compliance Officer" responsible for monitoring post-issuance tax compliance issues.
- B. The Compliance Officer will coordinate procedures for record retention and review of such records.
- C. All documents and other records relating to Obligations must be maintained by or at the direction of the Compliance Officer. In maintaining such documents and records, the Compliance Officer will comply with applicable Internal Revenue Service ("IRS") requirements, such as those contained in Revenue Procedure 97-22 (see the reference materials presented herewith, referred to herein as "Reference Materials").
- D. The Compliance Officer shall be aware of remedial actions under Section 1.141-12 of the Treasury Regulations (see Reference Materials) and the Treasury's Tax-Exempt Bonds Voluntary Closing Agreement Program (VCAP) and take such corrective action when necessary and appropriate.
- E. The Compliance Officer will review post-issuance tax compliance procedures and systems on

a periodic basis, but not less than annually.

- F. The Compliance Officer will be responsible for training any designated officer or employee who is delegated any responsibility for monitoring compliance pursuant to this procedure. To the extent the Compliance Officer needs training or has any questions with respect to any item in this procedure, he or she should contact bond counsel and/or Issuer's accountants and advisors. The IRS recognizes that the Compliance Officer and any delegated individual are not expected to act as lawyers who know the proper response to all compliance situations that may arise, but they should be familiar enough with federal tax issues that they know when to ask for legal or other compliance advice.

### **Issuance of Obligations: Documents and Records**

With respect to each issue of Obligations, the Compliance Officer will:

- A. Obtain and store a closing binder and/or CD or other electronic copy of the relevant and customary transaction documents (the "Transcript").
- B. Confirm that the applicable information reports (e.g., Form 8038 series) for such issue are filed timely with the IRS. Issuer should consult with their accountants and/or bond counsel with questions regarding the filing of such forms.
- C. Coordinate receipt and retention of relevant books and records with respect to the investment and expenditure of the proceeds of such Obligations.

### **Arbitrage**

The following procedures relate to the monitoring and calculating of arbitrage and compliance with specific arbitrage rules and regulations.

The Compliance Officer will:

- A. Confirm that a certification of the initial offering prices of the Obligations with such supporting data, if any, required by bond counsel, is included in the Transcript.
- B. Confirm that a computation of the yield on such issue from the Issuer's municipal advisor or bond counsel (or an outside arbitrage rebate specialist) is contained in the Transcript.
- C. Maintain a system for tracking investment earnings on the proceeds of the Obligations.
- D. Coordinate the tracking of expenditures, including the expenditure of any investment earnings. If the project(s) to be financed with the proceeds of the Obligations will be funded with multiple sources of funds, confirm that the Issuer has adopted an accounting methodology that maintains each source of financing separately and monitors the actual expenditure of proceeds of the Obligations.
- E. Maintain a procedure for the allocation of proceeds of the issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures. This procedure shall include an examination of the expenditures made with proceeds of the Obligations within 18 months after each project financed by the Obligations is placed in service and, if necessary, a reallocation of expenditures in accordance with Section 1.148-6(d) of the Treasury Regulations

(see Reference Materials).

- F. Monitor compliance with the applicable "temporary period" (as defined in the Code and Treasury Regulations) exceptions for the expenditure of proceeds of the issue, and provide for yield restriction on the investment of such proceeds if such exceptions are not satisfied.
- G. Ensure that investments acquired with proceeds of such issue are purchased at fair market value. In determining whether an investment is purchased at fair market value, any applicable Treasury Regulation safe harbor may be used.
- H. Avoid formal or informal creation of funds reasonably expected to be used to pay debt service on such issue without determining in advance whether such funds must be invested at a restricted yield.
- I. Consult with bond counsel prior to engaging in any post-issuance credit enhancement transactions or investments in guaranteed investment contracts.
- J. Identify situations in which compliance with applicable yield restrictions depends upon later investments and monitor implementation of any such restrictions.
- K. Monitor compliance with six-month, 18-month or 2-year spending exceptions to the rebate requirement, as applicable.
- L. Procure a timely computation of any rebate liability and, if rebate is due, to file a Form 8038-T and to arrange for payment of such rebate liability.
- M. Arrange for timely computation and payment of "yield reduction payments" (as such term is defined in the Code and Treasury Regulations), if applicable.

#### **Private Activity: Use of Proceeds**

The following procedures relate to the monitoring and tracking of private uses and private payments with respect to facilities financed with the Obligations.

The Compliance Officer will:

- A. Maintain records for determining and tracking facilities financed with specific Obligations and the amount of proceeds spent on each facility.
- B. Maintain records, which should be consistent with those used for arbitrage purposes, to allocate the proceeds of an issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures.
- C. Maintain records allocating to a project financed with Obligations any funds from other sources that will be used for otherwise non-qualifying costs.
- D. Monitor the expenditure of proceeds of an issue and investment earnings for qualifying costs.
- E. Monitor private use of financed facilities to ensure compliance with applicable limitations on such use. Examples of potential private use include:

1. Sale of the facilities, including sale of capacity rights;
2. Lease or sub-lease of the facilities (including leases, easements or use arrangements for areas outside the four walls, e.g., hosting of cell phone towers) or leasehold improvement contracts;
3. Management contracts (in which the Issuer authorizes a third party to operate a facility, e.g., cafeteria) and research contracts;
4. Preference arrangements (in which the Issuer permits a third party preference, such as parking in a public parking lot);
5. Joint-ventures, limited liability companies or partnership arrangements;
6. Output contracts or other contracts for use of utility facilities (including contracts with large utility users);
7. Development agreements which provide for guaranteed payments or property values from a developer;
8. Grants or loans made to private entities, including special assessment agreements; and
9. Naming rights arrangements.

Monitoring of private use should include the following:

1. Procedures to review the amount of existing private use on a periodic basis but not less than annually; and
2. Procedures for identifying in advance any new sale, lease or license, management contract, sponsored research arrangement, output or utility contract, development agreement or other arrangement involving private use of financed facilities and for obtaining copies of any sale agreement, lease, license, management contract, research arrangement or other arrangement for review by bond counsel.

If the Compliance Officer identifies private use of facilities financed with tax-exempt debt, the Compliance Officer will consult with bond counsel to determine whether private use will adversely affect the tax status of the issue and if so, what remedial action is appropriate. The Compliance Officer should retain all documents related to any of the above potential private uses.

### **Reissuance**

The following procedures relate to compliance with rules and regulations regarding the reissuance of Obligations for federal law purposes.

The Compliance Officer will identify and consult with bond counsel regarding any post-issuance change to any terms of an issue of Obligations which could potentially be treated as a reissuance for federal tax purposes.

### **Record Retention**

The following procedures relate to retention of records relating to the Obligations issued.

The Compliance Officer will:

- A. Coordinate with staff regarding the records to be maintained by the Issuer to establish and ensure that an issue remains in compliance with applicable federal tax requirements for the life of such issue.
- B. Coordinate with staff to comply with provisions imposing specific recordkeeping requirements and cause compliance with such provisions, where applicable.
- C. Coordinate with staff to generally maintain the following:
  - 1. The Transcript relating to the transaction (including any arbitrage or other tax questionnaire, tax regulatory agreement, and the bond counsel opinion);
  - 2. Documentation evidencing expenditure of proceeds of the issue;
  - 3. Documentation regarding the types of facilities financed with the proceeds of an issue, including, but not limited to, whether such facilities are land, buildings or equipment, economic life calculations and information regarding depreciation;
  - 4. Documentation evidencing use of financed property by public and private entities (e.g., copies of leases, management contracts, utility user agreements, developer agreements and research agreements);
  - 5. Documentation evidencing all sources of payment or security for the issue; and
  - 6. Documentation pertaining to any investment of proceeds of the issue (including the purchase and sale of securities, yield calculations for each class of investments, actual investment income received by the investment of proceeds, guaranteed investment contracts, and rebate calculations).
- D. Coordinate the retention of all records in a manner that ensures their complete access to the IRS.
- E. Keep all material records for so long as the issue is outstanding (including any refunding), plus seven years.

**Second by:** Supervisor Hynes

**Ayes:** Chamberlain, Coughlin, Hynes, Marshall, Zambito

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

**RESOLUTION #38-2019:**

Councilman Chamberlain offered the following:

**Resolution Adopting Comprehensive Post-Issuance Continuing Disclosure  
Compliance Procedures for Tax-Exempt Bond and Note Issues (per Prevailing SEC Expectations)**

**RESOLUTION, DATED NOVEMBER 7, 2019, OF THE TOWN BOARD OF  
THE TOWN OF ELBA, GENESEE COUNTY, NEW YORK (THE “TOWN”)  
ADOPTING SEC-DRIVEN CONTINUING DISCLOSURE COMPLIANCE  
PROCEDURES**

WHEREAS, Securities Exchange Commission (“SEC”) Rule 15c2-12 (the “Rule”) generally

prohibits underwriters from purchasing or selling municipal securities unless the issuer of such securities has entered into a continuing disclosure obligation; and

WHEREAS, the Town is a periodic issuer of municipal securities and thus has entered into continuing disclosure obligations (or will do so) from time to time; and

WHEREAS, it is therefore in the best interest of the Town to adopt formal written procedures to help ensure continuing disclosure compliance, and to designate an official responsible for ensuring that such procedures are followed; and

WHEREAS, Hodgson Russ LLP, as bond counsel to the Town, has prepared (and has recommended that the Town adopt) certain SEC-driven continuing disclosure compliance procedures;

NOW THEREFORE, BE IT RESOLVED, that the Town hereby adopts the continuing disclosure compliance procedures that are attached hereto as “Schedule A” and resolves to be governed thereby; and be it further

RESOLVED, that the below Schedule A will be placed in its entirety in the official records, files, and minutes of the Town and adhered to going forward; and be it further

RESOLVED, that this resolution shall take effect immediately upon its adoption.

#### Schedule A

### **TOWN OF ELBA GENESEE COUNTY, NEW YORK**

#### **Continuing Disclosure Compliance Procedures for Tax-Exempt Bonds and Notes**

**a. Purpose:** The purpose behind implementation of these continuing disclosure compliance procedures is to ensure that the **Town of Elba, Genesee County, New York** (the “Issuer”) (i) is compliant with its continuing disclosure obligations with respect to the securities it issues, pursuant to Rule 15c2-12, as amended (the “Rule”), promulgated under the Securities Exchange Act of 1934, as amended and (ii) makes accurate reports as to its compliance therewith in connection with its offerings of securities from time to time.

**b. Disclosure Compliance Officer Designation, Education and Training:** The Issuer will designate a “Disclosure Compliance Officer” who will be the primary official responsible for monitoring compliance with the continuing disclosure requirements listed in the Issuer’s continuing disclosure undertakings. The Disclosure Compliance Officer will attend training and educational seminars that are offered on an annual basis by the Issuer’s bond counsel (the law firm of Hodgson Russ LLP) and will consult with the Issuer’s bond counsel and municipal advisor as needed to keep current on Securities and Exchange Commission regulations and developments relating to continuing disclosure compliance for its obligations. The Issuer’s designated Disclosure Compliance Officer is **the Town Supervisor (currently Donna Hynes)**.

**c. Continuing Disclosure Obligations Review:** The Disclosure Compliance Officer is responsible for reviewing, with the Issuer’s municipal advisor, the Issuer’s continuing disclosure undertakings to determine

the date(s) by which annual financial information and audited financial information, along with any required material events notices and, if applicable, failure to file notices, must be filed with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access ("EMMA") system in accordance with the Rule.

**d. Preparation of Annual Financial Information and Audited Financial Statements:** If the Issuer's continuing disclosure undertakings require the filing of annual financial information and audited financial statements with EMMA, the Disclosure Compliance Officer will coordinate with the Issuer's auditor and municipal advisor to ensure that such documents are prepared and submitted in advance of the deadline for such filing.

**e. Monitoring Disclosure Compliance:** The Disclosure Compliance Officer will monitor the filing with EMMA of any and all documents required under the Issuer's continuing disclosure undertakings through consultation with the Issuer's municipal advisor and bond counsel when necessary.

**f. Correcting Potential Non-Compliance:** Upon discovery of potential or existing non-compliance with the Issuer's continuing disclosure undertakings, the Disclosure Compliance Officer will promptly take steps, including consultation with the Issuer's municipal advisor and bond counsel, to correct such non-compliance, such as by filing failure to file notices with EMMA.

**g. Official Statements:** The Disclosure Compliance Officer will review for accuracy and completeness any descriptions of the Issuer's continuing disclosure compliance history contained in the initial drafts of notices of sale or official statements that are promulgated by the Issuer in connection with its bond and note issues, and will inform the Issuer's municipal advisor and bond counsel of any potential inaccuracies or omissions within, so that any discovered inaccuracies or omissions in the draft document(s) can be corrected before such document(s) are finalized and distributed.

**Second by:** Councilman Coughlin

**Ayes:** Chamberlain, Coughlin, Hynes, Marshall, Zambito

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

**RESOLUTION #39-2019:**

Councilman Coughlin offered the following:

**RESOLUTION TO ACCEPT JUSTICE HOWARD'S RESIGNATION**

**WHEREAS,** Justice Adam Howard has tendered his resignation to the Town Supervisor,

**NOW, THEREFORE, BE IT RESOLVED,** the Elba Town Board hereby accepts the resignation of Justice Adam Howard effective November 6, 2019.

**Second by:** Councilman Chamberlain

**Ayes:** Chamberlain, Coughlin, Hynes, Marshall, Zambito

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

**RESOLUTION #40-2019:**

Councilman Chamberlain offered the following:

**RESOLUTION TO APPOINT TOWN JUSTICE**

**WHEREAS,** a vacancy exists in the Town Justice Court with the resignation of Justice Adam Howard; and

**WHEREAS,** in order to fill the vacancy, the Elba Town Board must appoint an individual to fill the office of Town Justice until the next General Election; and

**WHEREAS**, Anthony Zambito, a town resident has requested appointment to the office and has a satisfactory recommendation from the Republican Committee.

**THEREFORE, BE IT RESOLVED**, Anthony Zambito is hereby appointed to the vacant position of Town of Elba Justice, effective November 6, 2019, for the remainder of this fiscal year with the term ending December 31, 2020.

**Second by:** Councilman Coughlin  
**Ayes:** Chamberlain, Coughlin, Hynes  
**Abstain:** Marshall, Zambito  
**APPROVED** (3-ayes, 2-abstain)

**ABSTRACT 11-2019**

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

General Fund	236-260	\$8,507.48
Highway	120-134	\$220,201.02
Water District 2	57-64	\$410,333.93
	<b>Total</b>	<b>\$634,042.43</b>

**Ayes:** Chamberlain, Coughlin, Hynes, Marshall, Zambito

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

**COMMITTEE REPORTS**

**Building and Grounds**

Mr. Yungfleisch said the heaters in the shop received maintenance.

**Zoning Board**

Councilman Chamberlain reported:

- Looking into updating the side and rear lot requirements. The Zoning Board will look at the set back requirements of neighboring towns.

**Planning Board**

Councilman Coughlin reported:

- Reviewing solar and wind plans.
- Flood Zone – Councilwoman Marshall asked Mr. Hoover to contact Felipe Oltramari at Genesee County Department of Planning regarding the FEMA flood map. Residents who are in this flood zone struggle to get mortgages or home equity loans because the floor insurance is so expensive. Hopefully with the County reviewing this we can have the map updates for the Town of Elba.

**GAM**

Councilwoman Zambito attended the meeting. Robin Shutt with FASNY provided a presentation regarding volunteer fire departments charging for ambulance services.

Dave Hagelberger, Darien Town Supervisor is retiring. They will need to fill his seat on the Water and Commerce Committee’s.

**Cemetery**

Councilman Chamberlain met with Steve Davis. He witnessed him putting in and fixing foundations. He did let Mr. Davis know that “old fashion” stone foundations would no longer be accepted by the Town Board.

## **Publicity**

The Arc of Genesee Orleans sent a thank you letter. They are grateful for Mr. Yungfleisch's involvement and support. They are also having an Open House on November 13<sup>th</sup> from 5-7 at the Walnut Street location.

## **DEPARTMENT REPORTS**

### **Highway**

Superintendent of Highways Yungfleisch reported:

- The new truck is in and being assembled.
- Ordered two sander screens from Auction International for \$353.40, great deal.
- The trucks are ready to go for the winter.
- There are a couple of farms that are leaving a lot of dirt on the road. Mr. Yungfleisch is notified of this after hours, therefore we are paying someone to come in and clean/brush off the roads. This is a safety concern, Councilman Chamberlain advised Mr. Yungfleisch to contact the police so they can issue a citation to the farm. However, the police are typically the party calling Mr. Yungfleisch to let him know of this hazard. Mr. Yungfleisch will continue to monitor.
- The highway pick up truck has now been out of service for nine weeks. Spoke with the service manager in Albion this week and he stated they have spoken with GM and will replace the transmission. As it is in warranty there will be no charge to the Town. Hoping to get it back very soon and then will start looking for a new truck.

### **Assessor**

Supervisor Hynes passed around the letter that Mr. Flansburg is sending out to those renewing their agricultural exemptions. Councilwoman Marshall stated other towns were accepting a letter from the parties accountant stating that the business is an agricultural business and has income that exceeds \$10k.

Councilwoman Marshall made a **MOTION** that this letter not be sent out until we have more information.

**Second by:** Councilwoman Zambito

**Ayes:** Chamberlain, Coughlin, Marshall, Zambito

**Abstain:** Hynes

**APPROVED** (4-ayes, 1-abstain)

### **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 \$2428.10 and remitted \$2,346.10 to the Supervisor for local share, \$37.00 to NYS Ag. & Markets for spay/neuter program and \$45.00 to NYSDOH.

- Spoke with Millennium – they can set up an email account for each of the Town Board members. There is a very basic, free version that is available that we could try out at first. Basic email name, for example [dan.coughlin@elbanewyork.com](mailto:dan.coughlin@elbanewyork.com).

### **Supervisor**

- Made one change to the ATM lease agreement. The lease will be reviewed in five years.
- Solar Energy Law will be ready to vote on at the December meeting
- Water Construction meetings will take place November 13 and 27 at 9:00 a.m.
- The Year End meeting will be held December 26<sup>th</sup> at 3:00 p.m.
- The sale for the bond is next Tuesday, November 12<sup>th</sup>.
- Judge King is looking for compensation for covering all court cases in December.

Councilman Coughlin made a **MOTION** to pay Judge King his regular pay plus \$335.85 bi-weekly for the month of December.

**Second by:** Councilman Chamberlain

**Ayes:** Chamberlain, Coughlin, Hynes, Marshall, Zambito

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

### **Councilpersons**

Councilwoman Zambito handed in her letter of resignation effective November 30<sup>th</sup>. She wished to thank the community and the Town Board for the opportunity. The Town Board thanked Mrs. Zambito for her service.

Councilwoman Marshall came across a new town official training opportunity at RIT. She encouraged the Town Board and Town Clerk to take advantage of these type of training sessions. Councilwoman Marshall will send the email onto Town Clerk Werth who will email it to the Town Board.

### **ADJOURNMENT**

**MOTION** was offered from Councilman Chamberlain second by Councilman Coughlin to adjourn the meeting at 8:18 p.m.

**Ayes:** Chamberlain, Coughlin, Hynes, Marshall, Zambito

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

Respectfully Submitted,

Trisha Werth  
Town Clerk