

**Town of Elba
Regular Meeting
February 13, 2020**

Supervisor Hynes called the meeting to order at 7:30 p.m.; followed by the Pledge to the Flag.

Those in attendance included:

Supervisor Hynes
Councilman Chamberlain
Councilman Coughlin
Councilwoman Marshall

Others Present:

Town Clerk Werth
Superintendent of Highways Yungfleisch
Michael Augello
Chuck Hoover
Jason Foote, CPL
Adam Howard

Public Hearing Local Law #1 of 2020 – Town of Elba Solar Energy Local Law

Override Tax Levy Limit – The Supervisor called the Public Hearing to Order for Local Law #1 of 2020 – Town of Elba Solar Energy Local Law at 6:50 P.M. - Minutes for public hearing entered separately.

Public Hearing Local Law #2 of 2020 – Opt Out of Energy System Real Property Tax Exemptions

The Supervisor called the Public Hearing to Local Law #2 of 2020 – Order for Opt Out of Energy System Real Property Tax Exemptions at 7:25 P.M. - Minutes for public hearing entered separately.

Minutes of January 9, 2020 Town Board Meeting

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

Ayes: Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (4-0)

RESOLUTION NO. 9-2020

Councilman Chamberlain offered the following:

APPOINTMENT OF COUNCILMAN

WHEREAS, the resignation of Councilwoman, Chantal Zambito effective November 30, 2019 created a vacancy on the Elba Town Board; and

WHEREAS, the Town Board declared its intent to appoint a candidate to the vacant position;

NOW, THEREFORE, BE IT RESOLVED by the Elba Town Board that Michael Augello be appointed to fill a Councilman vacancy created by the resignation, effective February 13, 2020 and ending December 31, 2020.

Second by: Councilman Coughlin

Ayes: Coughlin, Chamberlain, Hynes, Marshall

APPROVED by unanimous vote (4-0)

RESOLUTION NO. 10-2020:

Councilman Coughlin offered the following:

RESOLUTION ADOPTING LOCAL LAW No. 1 of 2020
TOWN OF ELBA SOLAR ENERGY LOCAL LAW

WHEREAS, proposed Local Law No. 1 of 2020 of the Town of Elba entitled “Town of Elba Solar Energy Local Law”, which proposed Local Law in its final form was presented to the Town Board at the meeting held January 9, 2020, 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 February 13, 2020, 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 2020 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 2020 entitled “Town of Elba Solar Energy Local Law” be and the same hereby is adopted; and

BE IT FURTHER RESOLVED, that a certified copy of said Local Law No. 1 of 2020 be filed with the New York State Secretary of State in accordance with the Law.

Second by: Councilman Chamberlain

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 11-2019:

Councilwoman Marshall offered the following:

RESOLUTION ADOPTING LOCAL LAW No. 2 of 2020 TO OPT
OUT OF ENERGY SYSTEM REAL PROPERTY TAX EXEMPTIONS

WHEREAS, proposed Local Law No. 2 of 2020 of the Town of Elba entitled “Opt Out of Energy System Real Property Tax Exemptions”, which proposed Local Law in its final form was presented to the Town Board at the meeting held January 9, 2020, 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 February 13, 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. 2 of 2020 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. 2 of 2020 entitled “Opt Out of Energy System Real Property Tax Exemptions” be and the same hereby is adopted; and

BE IT FURTHER RESOLVED, that a certified copy of said Local Law No. 2 of 2020 be filed with the New York State Secretary of State in accordance with the Law.

Second by: Councilman Coughlin
Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 12-2020

Councilman Chamberlain offered the following:

**AMENDING RESOLUTION NO. 12-2019 TO AUTHORIZE INCREASED AMOUNT
FOR LEGAL SERVICES IN THE WATER DISTRICT NO. 2 PROJECT AND TO AUTHORIZE
SUPERVISOR TO SIGN AMENDED LEGAL SERVICES AGREEMENT BETWEEN THE TOWN
OF ELBA AND WEBSTER, SCHUBEL & MEIER, LLP**

WHEREAS, the Town of Elba (the “Town”) and Webster, Schubel & Meier, LLP (the “Attorney”) entered into a Legal Services Agreement (USDA form 1780-7) dated December 8, 2016 whereby the Attorney agreed to perform all legal services for the Water District No. 2 project at the rate of \$165.00 per hour, not to exceed \$20,625.00, and

WHEREAS, by Resolution No. 12-2019 the Town authorized an amended Legal Services Agreement so that the revised not to exceed amount was increased to the sum of \$31,250.00 to be paid at the rate of \$165.00 per hour, and

WHEREAS, pursuant to Resolution No. 12-2019, the Town and the Attorney entered into a Legal Services Agreement (USDA form 1780-7) dated April 11, 2019 whereby the Attorney agreed to perform all legal services for the Water District No. 2 project at the rate of \$165.00, not to exceed \$31,250.00, and

WHEREAS, given the unanticipated scope and volume of matters present in the Water District No. 2 project requiring legal services, the not to exceed amount of \$31,250.00 is insufficient, and

WHEREAS, the Town hereby determines that it is necessary and appropriate to raise the current not to exceed amount from \$31,250.00, NOW THEREFORE, be it

RESOLVED, the current not to exceed amount for legal services in the Water District No. 2 project be increased by the sum of \$13,750.00 so that the revised not to exceed amount shall be in the sum of \$45,000.00 to be paid at the rate of \$165.00 per hour, and be it further,

RESOLVED, that the Town Supervisor is hereby authorized to sign an amended Legal Services Agreement in form satisfactory to USDA Rural Development.

Second by: Councilman Coughlin
Ayes: Augello, Coughlin, Chamberlain, Hynes, Marshall
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 13-2020

Councilman Coughlin offered the following:

APPROVE MUNICIPAL SOLUTIONS, INC. TWO YEAR CONTRACT

RESOLVED, that the Elba Town Board hereby approves Municipal Solutions, Inc. proposed two year contract renewal in connection with the Town's general financial services, and be it further

RESOLVED, the Supervisor is hereby authorized to execute the two year agreement.

Second by: Councilman Augello

Ayes: Augello, Coughlin, Chamberlain, Hynes, Marshall

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 14-2020

Councilman Chamberlain offered the following:

**APPROVE LEGAL SERVICES AGREEMENT AND AUTHORIZE SUPERVISOR TO SIGN
BETWEEN THE TOWN OF ELBA AND WEBSTER, SCHUBEL & MEIER, LLP**

THIS AGREEMENT made as of the 1st day of January, 2020 between the TOWN OF ELBA, am municipal corporation of the State of New York, hereinafter referred to as "TOWN" and DAVID C. SCHUBEL, Attorney at Law, of 113 West Center Street, Medina, New York, hereinafter referred to as "ATTORNEY",

WHEREAS, the Town requires legal services in connection with the operations and functions of the government of the Town, and

WHEREAS, the Attorney is experienced in matters involving municipal law and wishes to perform necessary legal services for the Town,

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises hereinafter set forth, it is agreed as follows:

Attorney will perform such legal services to the Town as authorized and requested by the Town during the term of this Agreement.

As compensation for the services as rendered, the Town will pay the Attorney at an hourly rate of \$195.00 per hour which shall be paid monthly in installments upon submission of vouchers therefor by the Attorney, payable upon audit and approval by the Town. The vouchered payments shall not be considered compensation for the purposes of the New York State Retirement System.

The Attorney will perform and provide such legal services as are required by the Town in connection with capital projects, bond issues, and other borrowings and other related matters, at rates and fees to be agreed upon between the parties by separate agreement for each matter.

The Lawyers' Code of Profession Responsibility prohibits representation of multiple clients if the exercise of independent professional judgement of behalf of a client will be or is likely to be adversely affected by such multiple representation. For the matters contemplated herein, the Town will be a client of the Attorney.

As a matter of course, Attorney regularly represents other municipalities and professionals who provide services to municipal entities. Attorney's representation of these clients has occurred in the past, is presently ongoing, and Attorney hopes will continue in the future.

If Attorney represents a regular client in matters not related to the Town, a "potential" conflict of interest may arise if such client subsequently becomes involved in a matter relating to the Town. Execution of this Agreement will constitute a waiver by the Town of all "potential" conflicts of interests, but will not constitute a waiver of an "actual" conflict of interest. An "actual" conflict of interest would exist in a situation where Attorney's firm represents the Town and another client in the same matter. In the event of an "actual" conflict of interest, Attorney will provide notice to the Town of such "actual" conflict of interest, and will undertake such appropriate steps to resolve any such "actual" conflicts of interest consistent with the Lawyer's Code of Professional Responsibility.

The terms of this Agreement shall be for the period of one (1) year from January 1, 2020, to December 31, 2020. This agreement may be terminated by the Town upon thirty (30) days written notice by certified mail return receipt requested or personal delivery.

RESOLVED, that the Town Supervisor is hereby authorized to sign the Legal Services Agreement.

Second by: Councilman Coughlin
Ayes: Augello, Coughlin, Chamberlain, Hynes, Marshall
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 15-2020

Councilman Augello offered the following:

SNYDER BROTHER'S CEMETERY SERVICE INCREASE

WHEREAS, the Elba Town Board received notice from Snyder Brother's Cemetery Service that they will increase prices for grave openings and closing. The charge will now be \$425.00 for their service,

WHEREAS, Snyder Brother's Cemetery Service will also charge an additional \$150.00 for Sundays and Holidays and an overtime charge of \$100.00 per hour for funerals that arrive at the cemetery after 3:30 p.m.

WHEREAS, a regular burial charge will now be \$925.00, Sunday and Holiday charge is \$1,225.00, Disinterment \$925.00, Disinterment/Reinterment \$1,700.00

BE IT RESOLVED that this resolution will go into effect April 1, 2020.

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

RESOLUTION NO. 16-2020

Councilman Chamberlain offered the following:

**ACKNOWLEDGING COMPLETION OF
INTERNAL AUDIT FOR JUSTICE ADAM HOWARD**

WHEREAS, on November 25, 2019 the Town Board of the Town of Elba conducted an internal audit of the records, accounts and finances for the Justice Adam Howard, and

WHEREAS, the Town Board of the Town of Elba reviewed the records, accounts and finances of the above offices in accordance with the requirements and checklists provided by the office of the New York State Comptroller, and

WHEREAS, the Town Board of the Town of Elba found no irregularities, discrepancies or identified any issues of concern in the records, accounts and finances of the Justice Adam Howard.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Elba, New York, that is acknowledges the annual internal audit was conducted as required and,

BE IT FURTHER RESOLVED the Town Board of the Town of Elba, New York, is satisfied with the level of accountability and controls in place with regard to the records, accounts and finances for the Justice Adam Howard.

Second by: Councilman Coughlin

Ayes: Augello, Coughlin, Chamberlain, Hynes, Marshall

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 17-2020:

Councilman Chamberlain offered the following:

APPOINT ZONING BOARD OF APPEALS MEMBER

RESOLVED, that Charles Norton be appointed to the Elba Joint Village/Town Zoning Board of Appeals effective February 13, 2020 to fill an unexpired term, ending December 31, 2023.

Second by: Councilman Coughlin

Ayes: Augello, Coughlin, Chamberlain, Hynes, Marshall

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 18-2020:

Councilman Augello offered the following:

APPOINT PLANNING BOARD MEMBER

RESOLVED, that Adam Howard be appointed to the Elba Joint Village/Town Planning Board effective February 13, 2020 to fill the newly open seat left by Michael Augello. The term will end December 31, 2024.

Second by: Councilman Coughlin

Ayes: Augello, Coughlin, Chamberlain, Hynes, Marshall

APPROVED by unanimous vote (5-0)

ABSTRACT 2-2020

MOTION, Councilman Chamberlain second by Supervisor Hynes to approve the following:

General Fund	20-50	\$241,376.12
Highway	12-30	\$48,821.35
Water District 1	1-2	\$81,619.16
Water District 2	3-7	\$135,748.43
Total		\$507,565.06

Ayes: Augello, Coughlin, Chamberlain, Hynes, Marshall

MOTION CARRIED by unanimous vote (5-0)

COMMITTEE REPORTS

Building and Grounds

No report.

Zoning Board

Councilman Chamberlain reported there was no meeting in February. He believes Chuck Norton will be a good fit for the ZBA.

Supervisor Hynes reminded everyone that it is important to take minutes at the Zoning Board meeting and the Planning Board meetings. Recently, it has been difficult finding minutes from years ago to help answer FOIL requests.

Planning Board

Councilman Coughlin reported that Chuck Hoover will remain the Chair of the Planning Board, Brad Mudzynski will take over as Secretary and Bryan Gubb will be the Vice Chair.

GAM

Councilwoman Marshall attended the last GAM meeting. She stated it was a meet and greet, there are seven new Town Supervisors. Jay Gsell shared concerns on Medicaid and the County budget.

Councilman Coughlin will attend the next meeting.

Cemetery

No issues to report.

Publicity

Town Clerk Werth shared the invitation sent by Elba Fire Department for their annual banquet on March 14, 2020. Please let her know if you would like to attend.

DEPARTMENT REPORTS

Highway

Mr. Yungfleisch had no report.

Assessor

Mr. Flansburg left a report stating:

“Attached is a list of the residential sales used by the State in developing sales trends and equalization rates. Sales the last two years showed a trend of 21.83%. On the 2019 role changes, I got roughly 7% of that number in changes and for 2020 I have about 3% of that number. If sales continue at this trend, there will be a land and structure increase for 2021 and another structure increase in 2022. If the current market trend continues, we will have assessment increases the next three years to try to keep values high enough for the

State to declare us at 100%. I have tentative approval that the increases for 2020 will get us 100% certification just barely. As you can see, what people sell their property for is what makes assessments go up. The market currently is very strong. Only three of the sales went for below assessed value and two of those were empty houses. 2020 change notices will go out in early March and there is very little data to show anyone is over assessed. Please let me know if you have any questions."

	SALES	
	01/01/2018 TO	02/03/2020
	ASSESSMENT	SALE PRICE
①	50,000 (VACANT)	22,500
②	79,100 (VACANT)	45,000
③	86,000	69,000 (V)
④	46,000	89,400 (V)
⑤	86,900	90,000
⑥	92,000	100,000 (V)
⑦	90,000	108,000
⑧	74,000	110,000
⑨	83,000	119,000
⑩	75,000	119,900
⑪	98,000	121,000 (V)
⑫	125,800	137,400 (V)
⑬	91,000	139,000
⑭	83,400	139,900
⑮	110,500	145,000
⑯	102,000	150,000
⑰	122,500	151,000 (V)
⑱	138,000	154,000 (V)
⑲	118,000	160,900
⑳	155,000	170,400
㉑	131,000	210,000
㉒	365,000	375,000
	<u>2,401,900</u>	<u>2,926,400</u>
		(+524,500) = 21.83% ABOVE ASSESSMENT

7 VILLAGE - 708,000 (VALUE) - 821,800 (SALES) (+113,800) = 16.02%

15 TOWN - 1,693,900 (VALUE) - 2,104,600 (SALES) (+410,700) = 24.24%

ZEO/CEO

Mr. Mikolajczyk attended the Niagara Falls Builders Conference for his 24 hours certification on January 27, 28, 29, 2020.

Town Clerk

Town Clerk Werth reported that she took in \$1,060.00 and remitted \$1,023.00 to the Supervisor for local share, \$37.00 to NYS Ag. & Markets for spay/neuter program.

Town Clerk Werth will attend the Annual NYSTCA Conference in Albany this year, April 26-29th.

Taxes are going well. The Town has received their portion of taxes collected, to date have sent \$790,000.00 to the County Treasurer. We will continue to collect through the end of March. Town Clerk Werth will go through the remaining taxes to ensure the owner information is current.

Supervisor

Supervisor Hynes reported the following:

Water District 2

- Phase 7 – Jason Foote advised the Board that they were able to reduce fees for Phase 6 and would like to move forward with plans for Phase 7. This phase will help eliminate dead ends, close loops (98 North of Ridge Road, Pekin Road gap, Edgerton Road gap, West Avenue gap and Hundredmark Road), help will water pressure and pick up users.

Supervisors Hynes made a **MOTION**, second by Councilman Coughlin to move forward with Phase 7 as contingent on Rural Development's approval.

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (5-0)

- Phase 6 – There will be a change order submitted for this phase, no bid. Changes will include easement resubmitted to the Health Department, Rural Development and Sergi.
- Councilwoman Marshall asked if there was anything new with adding Byron residents on Transit Road. Jason Foote stated we can easily add out of district users, the Town of Byron would need to approve this. He would encourage those residents to approach their Town Board.
- Phase 4 – Caldwell Manufacturing is here and assembling the tank. We need to discuss what color we would like it painted. Mr. Foote stated there is approximately \$25k available to paint/add enhancements. Mr. Yungfleisch stated we should consider paving the area around the tank with that money. Supervisor Hynes asked the Board to think this over and we will discuss at the next meeting.
- The next WD2 construction meeting is scheduled for February 26th at 9:00 a.m.

Other Business

- Supervisor Hynes reported that we closed on the bank property January 30, 2020. Meeting with CPL on February 26th to take measurements and discuss design plans. We need to get a door in place as soon as possible for access. Mr. Yungfleisch will also work with Denis Rohan, Village of Elba Public Works to install the door. Once this door is installed M&T will board up the current door near the ATM. Having a door in place will allow Mr. Yungfleisch and his MEO's to start tearing down and removing counters, cupboards, cabinets, etc. He will put these items on Auctions International.
- Airosmith Development (Blue Sky Tower) are in the process of completing their application for the Town of Elba Planning Board. In order to complete the viewshed analysis under SEQR they floated helium balloons to the height of the proposed tower and then proceeded to take photos. They will need to fill out the building permit to review at the March Planning Board meeting.

- Supervisor Hynes spoke with Jay Grasso, G&G Municipal Consulting regarding a grant for archiving records. It was discussed that we need to start scanning the Town's documents. Supervisor Hynes will discuss moving forward with this grant with Mr. Grasso.
- The 2020 census is coming up. A map was sent to Supervisor Hynes showing the boundaries. It will need to be signed and sent back.
- Supervisor Hynes read a letter from Ms. Barbie Starowitz regarding 7351 Bank Street Road. Supervisor Hynes stated she spoke with CEO/ZEO Mark Mikolajczyk recently, he had discussed this issue with instructors at a recent training he attended. They all had the same opinion that this is a preexisting, non-conforming condition. Mr. Mikolajczyk has been informed by our Town Attorney, David Schubel that he would be unable to enter the house unless permission was granted by the home owner. Town Clerk Werth and Deputy Town Clerk Itjen have reviewed all documentation left by prior CEO/ZEO's, that information has been given to Ms. Starowitz. With that said, a letter will be sent to Ms. Starowitz stating that the Town Board feels due diligence has taken place.

Councilpersons

- Councilwoman Marshall recommended that Councilman Augello review the Association of Towns website. She also encouraged him to set time aside next January for the training that they offer.
- Councilwoman Marshall stated the sales tax revenue is dropping in Genesee County. She recently learned that a travel agency that typically brings approximately 90,000 people to Genesee County does not currently have any tours scheduled. The Town will need to be conservative with what is taking place with the Counties budget and because of mandates.
- Councilman Chamberlain discussed an email received from Mr. Jeff Palmeri. He went over to assess the situation and told Mr. Palmeri that the Town would not be able to assist. He should contact the sheriff's department because of the damage.

ADJOURNMENT

MOTION was offered from Councilman Chamberlain second by Councilman Coughlin to adjourn the meeting at 8:30 p.m.

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (5-0)

Respectfully Submitted,

Trisha Werth
Town Clerk