

**Town of Elba  
Regular Meeting  
October 8, 2020**

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 Augello  
Councilman Chamberlain  
Councilman Coughlin  
Councilwoman Marshall

**Others Present:**

Town Clerk Werth  
Highway Superintendent Yungfleisch  
Chuck Hoover, Elba Planning Board Chair  
John Babcock, Elba Zoning Board Chair  
Kathy Babcock, Resident  
Rick Sanfratello, Resident

**Minutes of September 10, 2020 Town Board Meeting**

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

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

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

**Minutes of September 28, 2020 Special Town Board Meeting**

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

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

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

**PUBLIC PARTICIPATION**

Chuck Hoover, Elba Planning Board Chair attended the meeting to discuss Hecate Energy's plan for Cider Solar Farm.

- Difference between the old Article 10 and the new 94C for large scale renewable energy projects – this is to streamline the process.
- Elba Planning Board does not want to allow Hecate to change the Town's current zoning law, they would like to look at each project individually.
- Mr. Hoover has spoken with two of Hecate's lawyers regarding special use permits, variance, decommission bond, overlay zone, host benefits, etc.
- Councilwoman Marshall asked if Mr. Hoover has spoken with Steve Hyde of the Genesee County Economic Development Committee. He has and the Town will discuss the split and the PILOT directly with Mr. Hyde.
- Governor Cuomo has stated that New York State will be 70% free of fossil fuel by 2025.
- Hecate would welcome the opportunity to come to any Town meeting to explain their plan.
- Supervisor Hynes will share via email Hecate's most recent email to Mr. Hoover.
- Councilman Augello asked how we can line up with Oakfield's vision. Mr. Hoover will speak with

the Planning Board Chair to see where they are.

- Councilwoman Marshall suggested a meeting between Hecate and their lawyers with the Elba Town Board, Planning Board and Zoning Board.

Mr. Rick Sanfratello attended to discuss his concerns for the large solar project. He understands this is the government's fast track program for solar projects and it will happen. He would like to see the Town plan for this financially and visually by working with the company now. Mr. Sanfratello encouraged the Town to receive professional assistance from an outside source if necessary.

Mr. John Babcock, Elba Zoning Board Chair and Mrs. Kathy Babcock were in attendance to discuss their concerns with this solar project. Their concerns included setbacks, following our Solar Law, how much this could affect the farmer's food projection, etc. Councilman Chamberlain ensured them the Town Board would work with Hecate the best they could.

Councilwoman Marshall will make a few calls to see if there are other 94C projects taking place.

Mr. Hoover also discuss a small solar project that will take place on Norton Road. Plans are moving along nicely for this project.

**RESOLUTION #30-2020:**

Councilman Chamberlain offered the following:

**INTRODUCE PROPOSED LOCAL LAW NO. 3 OF 2020 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. 3 of 2020.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board for the Town of Elba, New York that proposed Local Law No. 3 of 2020 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 5, 2020, and that a public hearing be held before this Town Board on the 5<sup>th</sup> day of November 2020 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 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:** Supervisor Hynes

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall  
**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 5, 2020 at 6:45 p.m. on the enactment of a Local Law known as Local Law No. 3 of 2020 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  
Town  
Village

of Elba, Genesee County, New York

Local Law No. 3 of the year 2020.

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  
Town  
Village

of Elba, Genesee County, New York as follows:

#### 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. 3 of 2020, of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of Elba, New York was duly passed by the Town Board on November 5, 2020, 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. 3 of 2020 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 \_\_\_\_\_ 2020, 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 \_\_\_\_\_ 2020, and was by the \_\_\_\_\_ on \_\_\_\_\_ 2020. 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. 3 of 2020 of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of \_\_\_\_\_ was duly passed by the Board of Trustees (Name of Legislative Body) on \_\_\_\_\_ 2020, and was (approved) ~~(not disapproved)~~ ~~(repassed after~~

disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 2020. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 2020, 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: October 8, 2020

**RESOLUTION #31-2020:**

Councilman Chamberlain offered the following:

**PRELIMINARY 2021 TOWN BUDGET**

**RESOLVED**, the Elba Town Board accepts the Preliminary Town Budget for 2021; and be it further

**RESOLVED**, that the 2021 Preliminary Town Budget hereby be filed in the Office of the Elba Town Clerk.

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

**RESOLUTION NO. 32-2020:**  
Supervisor Hynes offered the following:

**CALLING FOR PUBLIC HEARING ON THE 2021 TOWN BUDGET**

**RESOLVED**, the Elba Town Board hereby authorizes and orders that a Public Hearing on the Preliminary Town Budget for 2021 be conducted at the Elba Town Hall, 7 Maple Avenue, Elba, New York, beginning at 6:50 p.m. on Thursday, November 5, 2020 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 Augello  
**Ayes:** Augello, Chamberlain, Coughlin, Hynes, Marshall  
**APPROVED by unanimous vote (5-0)**

**NOTICE OF PUBLIC HEARING  
ON THE 2021 TOWN BUDGET**

**PUBLIC NOTICE IS HEREBY GIVEN** that the Preliminary Budget of the Town of Elba for fiscal year 2021 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 5, 2020 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:**

|                                 |                    |
|---------------------------------|--------------------|
| <b>Supervisor</b>               | <b>\$8,185.00</b>  |
| <b>Councilperson (4)</b>        | <b>\$1,943.50</b>  |
| <b>Town Clerk/Tax Collector</b> | <b>\$29,507.00</b> |
| <b>Highway Superintendent</b>   | <b>\$58,425.00</b> |
| <b>Town Justice (2)</b>         | <b>\$8,950.00</b>  |

By Order of the Elba Town Board

Trisha Werth, Town Clerk

**RESOLUTION NO. 33-2020**  
Councilman Chamberlain offered the following:

**WATER DISTRICT #2**  
**PROJECT BUDGET MODIFICATIONS**

**WHEREAS**, the Town of Elba has received funding from Rural Development for their Water District #2 Project (“Project”); and

**WHEREAS**, the Town Board wishes to adjust project budget items to more accurately reflect actual costs and;

**WHEREAS**, Rural Development requires the Town Board to authorize all changes to the Administrative Budget as shown on the Form E; NOW, therefore be it

**RESOLVED**, that the Town Board of the Town of Elba authorizes the following Budget modifications for the Project:

|                       |             |             |
|-----------------------|-------------|-------------|
| Tank Enhancements     | Decrease of | \$25,000.00 |
| Geotechnical Services | Decrease of | \$2,773.70  |

I, Trisha Werth, Town Clerk of the Town of Elba, do hereby certify that the aforementioned resolution was adopted by the Town Board of the Town of Elba on October 8, 2020, by the following vote:

|                                 | AYE          | NAY   |
|---------------------------------|--------------|-------|
| Donna Hynes, Supervisor         | <u>  X  </u> | _____ |
| Wade Chamberlain, Councilmember | <u>  X  </u> | _____ |
| Dan Coughlin, Councilmember     | <u>  X  </u> | _____ |
| Maureen Marshall, Councilmember | <u>  X  </u> | _____ |
| Michael Augello, Councilmember  | <u>  X  </u> | _____ |

\_\_\_\_\_  
Trisha Werth  
Town Clerk – Town of Elba

Dated: October 8, 2020

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

**RESOLUTION NO. 34-2020**  
Councilman Augello offered the following:

**AUTHORIZE DELINQUENT WATER BILLS**  
**TO BE LEVIED AGAINST 2021 TAX WARRANT**

**WHEREAS**, the Town Clerk has received a list of all property owners who owe for water rents in Water District #1 and 2 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 Genesee County Treasurer is hereby approved for levying against the individuals 2021 tax warrant.

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

**Abstract 10-2020**

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

|                  |              |                     |
|------------------|--------------|---------------------|
| General Fund     | 204-230      | \$45,609.05         |
| Highway          | 116-128      | \$90,186.39         |
| Water District 2 | 46-52        | \$134,734.87        |
|                  | <b>Total</b> | <b>\$270,530.31</b> |

**Ayes:** Augello, Chamberlain, Coughlin, Hynes, Marshall  
**MOTION CARRIED by unanimous vote (5-0)**

**COMMITTEE REPORTS**

**Building and Grounds**

No report.

**Zoning Board**

Mr. Chamberlain reported that there was a Public Hearing for a pole bard variance at 4685 North Byron Road. This was approved. The Zoning Board also discussed the solar projects at length.

**Planning Board**

Refer to Mr. Hoover’s report on solar at the beginning of this meeting.

**GAM**

A meeting will take place next week.

**Cemetery**

No report.

**DEPARTMENT REPORTS**

**Highway**

Mr. Yungfleisch shared the following:

- Paving, mowing road sides, stone and oil will be taking place next week

- Looking for a used Gradall to help with all the ash trees that are falling due to disease.
- Hired a new MEO
- Did not sign union contract yet, letting it ride. Would like to do something for the guys to get rid of union. Will work on this month.
- Looking into different insurance that is comparable – spoke with a representative from Tompkins who is willing to explain benefits to Board/employees. Will have answers next week.

### **Assessor**

No report.

### **ZEO/CEO**

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

### **Town Clerk**

Town Clerk Werth reported that she took in \$1,189.00 and remitted \$1,144.00 to the Supervisor for local share, \$45.00 to NYS Ag. & Markets for spay/neuter program.

### **Supervisor**

Supervisor Hynes reported the following:

- Dave Schubel spoke with the State Comptroller, they are still in the process of reviewing the Order of the Town Board of Elba Increasing the Maximum Amount To be Expended On Water District No. 2. They have had these documents since January 2020. Dawn Kuras with RD and Jeff Smith with Municipal Solutions are anxious to close as well. Jason Foote, CPL will send Phase 7's advertisement for bids to be submitted in the paper to Town Clerk Werth this week. This is in hopes of the documents will arrive from the Comptroller within 90 days, we will have the bid opening on November 2, 2020. We will not be able to award until we receive confirmation from the Comptroller.
- New Building – The asbestos inspection came back positive for a few spots. This will need to go out to bid as well. Would like to have the same opening date as Phase 7. The architect put a package together for remodeling. This cannot be done until the asbestos is removed.
- Brett Morgan, Blue Sky – They are waiting to hear back from the Native American tribes concerning the land where they would like to put the tower. He sent Supervisor Hynes a packet on information to fill out. She completed it with Mr. Yungfleisch. They would like to start construction as soon as possible.
- WD2 Phase 4 – Water tank is filled and the tests are back. We hope for DOH approval by the end of the week, enabling us to move forward with going live next week. Goal is to turn all operations over to the Town of Batavia by the week of October 19, 2020. The final step is to demo the village tank.

### **Councilpersons**

Councilwoman Marshall asked if the Town will put a notice out supporting Halloween/Trick or Treating in Elba. It was discussed that the Governor did not forbid it and that parents should do what they feel comfortable with.

Councilwoman Marshall discussed the communication with the Fire District regarding their budget and other public hearings. She has had conversation with other residents on how this information is shared. It is published in the Fire District's legal paper. Supervisor Hynes will speak with Chief Heale about positing in in other visual areas for residents, for example Crosby's, the post office, etc.

Councilman Chamberlain asked how we should accommodate residents during Public Hearings with Covid-19 precautions in place. After discussion it was agreed that we would change the set up of the meeting room to accommodate a few more people while observing social distancing and we can also have the meeting available on a zoom call.

Councilman Augello was concerned with waiting until December for meetings with Hecate Energy lawyers. Especially if they are planning to submit applications to the State in January/February. Supervisor Hynes will touch base with the lawyers to schedule a meeting.

**ADJOURNMENT**

**MOTION** was offered from Councilman Chamberlain second by Councilwoman Marshall to adjourn the meeting at 8:50 p.m.

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

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

Respectfully Submitted,

Trisha Werth  
Town Clerk