

**Town of Elba
Regular Meeting
March 11, 2021**

Supervisor Hynes called the meeting to order at 7:05 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
Superintendent of Highways Yungfleisch
Chuck Hoover, Planning and Wind/Solar Committee Chair
Charles Malcomb, Partner, Hodgson Russ
Harrison Luna, Hecate Energy – Zoom – exited meeting at 7:07 p.m.
Rachel Partington, Junior Associate, Knauff Shaw – Zoom – exited meeting at 7:35 p.m.

Minutes of February 11, 2021 Town Board Meeting

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

Ayes: Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (4-0)

RESOLUTION NO. 18-2021

**RESOLUTION SETTING A PUBLIC HEARING FOR
PROPOSED LOCAL LAW NO. 1 OF 2021**

UPON MOTION OF COUNCILMAN CHAMBERLAIN, SECONDED BY SUPERVISOR HYNES, IT IS UNANIMOUSLY RESOLVED THAT:

WHEREAS, by Resolution adopted February 11, 2021, the Town Board of the Town of Elba introduced for consideration proposed Local Law No. 1 of 2021, that would repeal the Town of Elba Solar Energy Law, Local Law No. 1 of 2020, and amend the Town of Elba Zoning Law to add a new section regulating solar energy systems; and

WHEREAS, the proposed Local Law is subject to the notice and hearing requirements of Town Law § 264.

NOW, THEREFORE, IT IS RESOLVED that a public hearing before the Town Board at the Elba Town Hall regarding the proposed Local Law and the SEQRA review for the proposed Local Law is set for April 8, 2021 at 6:45 pm; and

RESOLVED, pursuant to Town Law § 264, notice of the time and place of the public hearing shall be published in the *Batavia Daily News* at least ten days prior to the date of the public hearing; and

RESOLVED, pursuant to Town Law § 264, at least ten days prior to the date of the public hearing, written notice of the Proposed Local Law shall be mailed or personally delivered to the Town Clerks of the Towns of Byron, Stafford, Batavia, Oakfield, Barre, and Clarendon, and the Clerk of the Legislature of Orleans County.

DATE: March 11, 2021

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

RESOLUTION NO. 19-2021

Councilwoman Marshall asked if there was a mechanism for people who do not have the ability to file electronically. Town Clerk Werth advised that residents are still able to come in, this is for those who choose not to come in person. This will be added to the webpage for residents to see.

After a brief discussion, Councilman Coughlin offered the following:

ABILITY TO FILE GRIEVANCES ELECTRONICALLY

WHEREAS, the Town Board of the Town of Elba; Under section 104 of the Real Property Tax Law, an assessing unit is authorizing the electronic filing of complaints for the administrative review of real property assessments must comply with the standards listed below. The Town of Elba is authorizing the e-filing of complaints by resolution. The town must publish instructions for e-filing complaints by a method reasonably calculated to reach complainants.

Pursuant to the Department's authority under RPTL § 104(1)(b), the following standards are hereby established for the electronic filing of complaints for administrative review of assessments:

- I. Assessing units may opt to allow the electronic filing of complaints by local law, ordinance, or resolution, as authorized by RPTL § 104(3)(b).
- II. Assessing units that opt to allow the electronic filing of complaints must publish instructions for filing such a complaint by a method reasonably calculated to reach complainants who wish to e-file.
- III. Assessing units that opt to allow the electronic filing of complaints may accept electronically filed complaints directly via email or other electronic method established by the assessing unit, or indirectly via a vendor or contractor hired by the assessing unit for such purpose.
- IV. Any person aggrieved by an assessment (e.g., an owner, purchaser or tenant who is required to pay the taxes pursuant to a lease or written agreement) may electronically file a complaint (RP-524) if their property is located within an assessing unit that has opted to accept e-filing. Property owners may e-file a complaint themselves or an authorized representative or attorney may e-file a

complaint on behalf of the property owner. If a complaint is being e-filed by a representative or attorney, it must include a fully completed power of attorney or designation of representative or the e-filed complaint may be rejected.

- V. Questions contained on an e-filed complaint, or used to generate an e-filed complaint, must be substantially similar to the questions contained on the RP-524. Instructions for e-filing complaints must be substantially similar to the instructions for the RP-524.
- VI. A separate complaint must be e-filed for each individual parcel unless the assessor, in his or her discretion, agrees in writing that a single complaint will be accepted for certain contiguous parcels identified in writing by the assessor.
- VII. By choosing to e-file, complainants' consent to receive correspondence related to their complaint, as well as the determination of the BAR, via email or other electronic method established by the assessing unit.
- VIII. Complainants are strongly encouraged to e-file documents in advance of the filing deadline. User problems such as problems with a user's telephone lines, internet service provider, hardware, or software, problems in understanding or following the e-filing instructions, or rejection of a document because it contains a virus will not excuse an untimely filing. A complainant who cannot e-file a document because of any of these user problems must file conventionally and timely. An assessing unit's inability to receive a document via its e-filing system due to a technical failure will not excuse an untimely filing unless the assessing unit acknowledges the technical failure in writing and agrees in writing to an extension of time.

NOW THEREFORE BE IT RESOLVED, the town Board of the Town of Elba does hereby authorizing the electronic filing of complaints for the administrative review of realproperty assessments for the year 2021 complying with the standards listed above.

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

ABSTRACT 3-2021

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

General Fund	49-68	\$3,926.08
Highway	19-30	\$22,032.30
Water District 2	7-9	\$5,899.28
	Total	\$31,857.66

Ayes: Chamberlain, Coughlin, Hynes, Marshall
MOTION CARRIED by unanimous vote (4-0)

COMMITTEE REPORTS

Building and Grounds

Mr. Yungfleisch received a quote from SJF (\$35K) to add an overhead door at the end of the Town Hall building. He would like to put this out to bid. The door he would like is \$6,500.00 from Overhead Door and they are always very responsive when there are issues with the doors. His goal is to make the old garage into a shop so they have a workable space to service the trucks and other highway equipment. This way they will not have to take equipment/trucks out of the current garage and move them back in when finished. They will use the building out back as storage. Mr. Yungfleisch would also like to close off three of the overhead doors on the front of the old garage and leaving the last door, this will help in saving heat.

Zoning Board

Councilman Chamberlain reported:

- They approved the variance for Justin Murray, 44 South Main Street after a Public Hearing. They are redoing the house and plan to add an addition on the back. County Planning did not have any objections.
- The Zoning Board named Rick Sanfratello as the Chairperson. John Babcock will continue to stay on the Committee through June.

Planning Board

Councilman Coughlin reported:

- BW Solar came to the meeting to discuss the project that will be on Route 98 owned by CY Farms, 30 acres solar on the 50 acres. They had discussion regarding moving the panels back a bit farther from the houses.
- Discussed the Solar Law.
- Discussed the Norton Road project, the Genesee County Planning Board is reviewing tonight.
- Discussed the solar permit piece. They also discussed how other towns are handling this. Their only concern was using the money in the B fund. Supervisor Hynes said she spoke with our CPA and the money can be moved. Councilwoman Marshall shared that the gentleman from NYSERDA confirmed it could be moved. Still waiting on the information from NYSERDA.

GAM

Councilman Augello attended the meeting via Zoom.

Cemetery

No report.

Publicity

No report.

DEPARTMENT REPORTS

Highway

Mr. Yungfleisch reported:

- They went out and rolled up all the fence, too wet to get the stakes yet.
- They have been trimming trees.
- Mr. Yungfleisch will order 500 ton more salt as it looks like the price is staying.
- The State is giving back the 20% for CHIPS, this will be returned with next years CHIPS.
- He received a quote for \$51K for a larger Kubota tractor he would like to purchase. Mr. Yungfleisch would like to sell the smaller Kubota on Facebook Marketplace for \$35K. If he sells

it for that he could use the \$20K in his equipment line that will cover the rest.

- He sent the box to get painted as it was rusting on the 2016 truck.
- Mr. Yungfleisch would like to purchase a snowblower to clean out around the hydrants. They worked on cleaning around them this winter and the Fire Department did as well. It is worth the cost to save a life or house.

Assessor

No report.

ZEO/CEO

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

Town Clerk

Town Clerk Werth reported that she took in \$1242.75 and remitted \$729.50 to the Supervisor for local share, \$22.00 to NYS Ag. & Markets for spay/neuter program and \$491.25 to the NYS Comptroller's Office for Racing and Wagering.

We will continue to collect Town and County taxes through the end of March. There are just under 90 bills left, more than half have a school, village or water/sewer relevy.

Supervisor

Supervisor Hynes reported:

- There was a pre-con meeting with Rochester Pipeline on March 10th. They are expecting to start at the end of April on Hundredmark Road. Hoping to complete the project by the end of the summer.
- Whitney East started working on the new Town Hall today.
- March 17th we will pay off the existing BAN on WD1. It was bought by a new bank, the balance is \$1,544,009.54
- Rural Development will start taking their first payment of \$406,437.67 on April 30th.
- Mike Augello has been having trouble with his email account, keeps receiving a message that he needs to delete emails. He does not want to purge the emails. Supervisor Hynes spoke with Marc Johnson at Millennium and they are in the process of upgrading their server, this will increase their domain. That should resolve the issue. Let us know if anyone receives the same message and we will let Millennium know. Councilwoman Marshall stated she had received the same message too and just removed some of them.

Councilpersons

Councilman Chamberlain said he went to the School Board meeting for the first time in over a year. He received a copy of the budget.

Councilwoman Marshall asked if Supervisor Hynes had received notification from Senator Schumer regarding the \$250K that Elba should be getting. Supervisor Hynes stated she was told that amount would be split between the Village and the Town using the 2019 census. Councilman Chamberlain asked what this was to be used for. Supervisor Hynes stated it should be used for Covid relief funds. Councilwoman Marshall read that there was a list of several items it could be used for.

Councilwoman Marshall stated she was not receiving emails from GAM. Town Clerk Werth will check in with Heidi Librock to ensure she is on the distribution list.

OLD BUSINESS

Assessment Board of Review Position

Councilwoman Marshall suggested Mark Burhans, Tony Mancuso and Sue Dart. She will reach out to them to see if they have interest. They will be encouraged to send a letter of interest to the Town Clerk and she will scan/email them to everyone.

Planning Board Position

They will be short one person as Vern Howard is running for a Village Trustee position. Mayor Itjen recommended Mindy Stempin for this Village appointed position.

Supervisor Hynes is going to meet with Mayor Itjen when he returns to town.

Town of Elba Fee Schedule

Mr. Hoover spoke with Ian from NYSERDA, who did not think \$5 a KW was an outrageous fee. This is going to be used for Community Solar projects as the State will handle the permits for 94-C projects. Mr. Malcomb believes this may be locally delegated. Mr. Hoover said there is precedence in our area for \$5 a KW on five megawatt projects, which would be 5,000 kilowatts would equal out to \$25K. A lot of the towns that did this did not have an escrow account. Town of Caledonia charges \$4.50 a KW and do not have an escrow account, there are others charging \$1.75-\$2.00 a KW.

Councilwoman Marshall has discovered that there are more inspections and the Zoning Code Enforcer will also look at audits. There will be NYSDOT, National Grid, electrical inspection, highway, etc. She stated there is a lot more involved than we initially thought. Mr. Hoover shared that many of these are third party inspections, but they still need to be recorded to the Town to ensure they are following our Law. This is a 15 year project minimum; every year inspections will need to be done with this one time fee. There is potential for numerous inspections that need to be averaged over time. They do not feel it is outrageous, it is in line with other towns.

Mr. Hoover felt somewhere in between \$3.00 - \$5.00, we will be asking for \$10K up front in an escrow account to pay for the attorney and engineering reviews for all community solar projects. Councilman Chamberlain added the building fees are reviewed every year and with this being so new, we do not know exactly how many inspections there will be. He stated \$3.00 would be a good starting point, and if after a year we can review the fees.

Mr. Malcomb shared that the law states that these fees are to cover the Town's costs in administering the review, it is not for revenue generating. It is intended to make sure the Town is not paying more to review one program versus the other. Typically, there should be some analysis done as to what it would take to do this. It is ok to look at what other communities are doing to see what their experiences are as part of the analysis. Also, he stated an arrangement will be identified as to who will do the building permit. If the local Town does it there will be an arrangement made with the developer. If it cannot be done, the applicant can request the Department of State to work through the building permit with the Town. It will be case by case with 94-C projects.

Councilwoman Marshall made a **MOTION** to make the solar fee \$4.00 a kilowatt plus the escrow.

Second by: Supervisor Hynes

Ayes: Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (4-0)

Councilwoman Marshall asked if we could use the intervenor funds for a Solar Coordinator. The Solar Coordinator is paid by three or four developers. They are paying Leiscter, Dansville and Mt. Morris the \$30K a year to pay this Coordinator.

NEW BUSINESS

None.

EXECUTIVE SESSION

At 7:44 p.m. Councilwoman Marshall made a **MOTION** seconded by Councilman Coughlin to adjourn to Executive Session for matters concerning personnel.

Ayes: Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (4-0)

At 8:00 p.m. Councilwoman Marshall made a **MOTION** seconded by Councilman Coughlin to move from Executive Session to Public Session and reconvene the regular meeting.

Ayes: Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (4-0)

ADJOURNMENT

MOTION was offered from Councilwoman Marshall second by Councilman Chamberlain to adjourn the meeting at 8:01 p.m.

Ayes: Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (4-0)

Respectfully Submitted,

Trisha Werth
Town Clerk