

**Town of Elba  
Regular Meeting  
September 9, 2021**

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

**Others Present:**

Town Clerk Werth  
Superintendent of Highways Yungfleisch  
Chuck Hoover, Planning Board Chairman  
Rick Sanfratello, ZBA Board Chairman – exited meeting at 7:42 p.m.  
Linda Petote, Resident – exited meeting at 7:42 p.m.  
Lois Petote, Resident – exited meeting at 7:42 p.m.  
Joan Shuknecht, Resident – exited meeting at 7:42 p.m.

**Absent:**

Councilman Augello

**Public Participation**

Residents Linda Petote, Lois Petote, Joan Shuknecht and Rick Sanfratello were in attendance to discuss the solar panel project that Hecate is working on. They each shared their concerns regarding the panels being placed near their homes and in the Town. After the Town Board listened to their concerns Mr. Hoover recommended they come to the Planning Board meeting on September 16<sup>th</sup> to discuss this further.

**Minutes of August 12, 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. 38-2021**

**RESOLUTION INTRODUCING THE PROPOSED LOCAL LAW NO. 2 OF 2021  
AND ELATED SEQRA EAF FOR REVIEW, ESTABLISHING SEQRA LEAD  
AGENCY, REFERRING PROPOSED LOCAL LAW NO. 2 OF 2021 TO THE  
GENESEE COUNTY PLANNING BOARD AND SETTING A PUBLIC HEARING**

**UPON MOTION OF COUNCILMAN CHAMBERLAIN, SECONDED BY COUNCILMAN COUGHLIN, IT IS UNANIMOUSLY RESOLVED THAT:**

**WHEREAS**, at a meeting of the Planning Board held on August 19, 2021, the members of the Planning Board, pursuant to Zoning Law §901, adopted a resolution recommending that the Town of Elba Town Board consider amending the Zoning Law to add regulations for battery energy storage systems as set forth in the proposed local law, annexed hereto as Exhibit A (the “Proposed Local Law”); and

**WHEREAS**, the Proposed Local Law would amend the Town of Elba Zoning Law to add a new Section 414 to provide regulations for the siting, construction, operation, and decommissioning of battery energy storage systems within the Town and is based on the Model Battery Energy Storage Law developed

by NYSERDA for New York municipalities and similar battery energy storage system regulations of other rural communities, and has been tailored to be consistent with siting standards for solar energy systems set forth in the Zoning Law; and

**WHEREAS**, adoption of the Proposed Local Law could be considered a Type I action under the State Environmental Quality Review Act (“SEQRA”), pursuant to 6 N.Y.C.R.R. §617.4(b)(2), because it may be considered to be changing the allowed uses within an area of more than 25 acres within the Town; and

**WHEREAS**, Part 1 of a Long Form SEQRA Environmental Assessment Form (“EAF”), annexed hereto as Exhibit B, has been prepared for the Proposed Local Law; and

**WHEREAS**, the Proposed Local Law is required to be referred to the Genesee County Planning Board pursuant to General Municipal Law § 239-m; and

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

**NOW, THEREFORE, IT IS RESOLVED** that the Proposed Local Law, as recommended by the Planning Board, is introduced for consideration by the Town Board; and

**RESOLVED**, that, pursuant to 6 N.Y.C.R.R. §617.6(b)(3)(i), the Town Board shall serve as Lead Agency for the SEQRA review of the Proposed Local Law; and

**RESOLVED**, that the Town Board accepts and directs the Town Supervisor to sign Part 1 of the EAF; and

**RESOLVED**, that the Town Board directs the Town Supervisor to arrange for the referral of the Proposed Local Law and EAF to the Genesee County Planning Board for review pursuant to General Municipal Law § 239-m; and

**IT IS HEREBY FURTHER 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 October 14, 2021 at 6:55 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:** September 9, 2021

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

**MOTION CARRIED by unanimous vote (4-0)**

**RESOLUTION NO. 39-2021**

Councilman Coughlin offered the following:

## APPOINT ZONING BOARD OF APPEALS MEMBERS

**RESOLVED**, with the resignation of Elton Shuknecht, the Board moves to appoint John Given to the Elba Joint Village/Town Zoning Board of Appeals effective September 9, 2021 to fill Mr. Shuknecht's unexpired term, ending December 31, 2021.

**RESOLVED**, with the resignation of John Babcock, the Board moves to appoint Mark Caparco to the Elba Joint Village/Town Zoning Board of Appeals effective September 9, 2021 to fill Mr. Babcock's unexpired term, ending December 31, 2023.

**Second by:** Councilman Chamberlain

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

**APPROVED by unanimous vote (4-0)**

### ABSTRACT 9-2021

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

General Fund	188-212	\$27,338.57
Highway	95-99	\$115,183.73
BW Solar	4	\$450.00
Water District 2	21-23	\$209,469.79
	<b>Total</b>	<b>\$352,442.09</b>

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

**MOTION CARRIED by unanimous vote (4-0)**

### COMMITTEE REPORTS

#### Building and Grounds

Mr. Yungfleisch shared that he would like to add a twenty foot overhead door at the end of the current Town building and close off three of the overhead doors. This will need to go out to bid. He will move his office up front and they will use the back barn to store equipment.

#### Zoning Board

Councilman Chamberlain shared they reviewed the two new members, Mr. Given and Mr. Caparco. They also denied the variance at 22 Chapel Street. There are a few other variances they are reviewing and scheduling public hearings.

#### Planning Board

Councilman Coughlin and Mr. Hoover shared the following:

- Mr. Hoover signed Mr. Bridge's mylar for Log City Road.
- BW Solar is looking to increase their project by five acres in order to spread out more. They will need to redo an environmental review and other documents if they increase the size.
- Cider Solar
  - Mr. Hoover and Mr. Kanyuck have attended two PILOT meetings with Harrison Luna, Hecate and Steve Hyde, GCEDC. Negotiations are ongoing. The State does not need an approved PILOT to review the project, but it would need to be in place before a building permit is issued. Also, if the State changes any laws or 94C switches back to Article 10 than the Town will definitely review the project.
  - The State sent Hecate back a number of items that needed to be completed on their

- application. They are looking for a waiver on decommissioning and a 2% escalator.
- Mr. Hoover spoke with Ian at NYSERDA regarding the intervenor funds.
- Currently the State does the permitting for the larger solar projects, however they may be passing it back on to the Towns.
- Mr. Kanyuck worked out the new law for the battery storage. It may need to be tweaked down the road, but this is a good start. Mr. Kanyuck has done this with a number of towns and the language fits.

### GAM

No meeting.

### Cemetery

No report.

### Publicity

Elba Betterment Committee is hosting a scarecrow decorating contest. Forms are available at the Town and Village offices.

## DEPARTMENT REPORTS

### Highway

Supervisor Hynes made a **MOTION**, second by Councilman Coughlin to allow the Highway Superintendent to hire MEO's who lives in a bordering town.

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

**MOTION CARRIED by unanimous vote (4-0)**

A resolution will be prepared for the next meeting regarding MEO's.

Mr. Yungfleisch reported:

- A couple of interviews for MEO will take place in the next week. Received resumes from several people out of town.
- Waiting on the County to pave Arnold Road
- Mowing road sides
- Would like to purchase a Diamond 3 point boom mower for \$35k through WD2 fund. Waiting to hear back from John Helgren to approve the purchase. This will be used to get around hydrants, ditches, etc.

### Assessor

No report.

### ZEO/CEO

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

### Town Clerk

Town Clerk Werth reported that she took in \$1,033.79 and remitted \$942.29 to the Supervisor for local share, \$69.00 to NYS Ag. & Markets for spay/neuter program and \$22.50 to NYS DOH for a marriage license.

### Supervisor

Supervisor Hynes reported:

- August 24<sup>th</sup> WD2 construction meeting – Phase 7 is underway, working on Starowitz Road now.

Some issues with lead time but they hope to be completed by the end of September. Part of the delay was due to the availability of water but with the hook up in Pembroke water is more readily available. Town of Batavia should be able to complete flushing as soon as lines are filled. Next meeting September 22<sup>nd</sup>.

- August 31<sup>st</sup> – Mr. Yungfleisch and Supervisor Hynes met with the safety specialist from NYMIR for Lawley. She inspected all building and satisfied with just about everything. She recommended the Town adopt a law, Notice of Highway Defects. Please review for discussion at next month's meeting.
- In reviewing the ARPA Recovery Fund:
  - The Town can use these funds to purchase new laptops for the new Town office as well as Chromebooks for Town Board members and Planning and ZBA Chairs. They each will have a web cam application which will enable us to continue functioning as a Town if we go into another lock down. Councilwoman Marshall encouraged Supervisor Hynes to look into increasing the size of the megawatts for each Chromebook and laptop.
  - The Town should also use the ARPA funds to update the phone systems here.
  - We can also use these funds to purchase a TV for the board room.
  - The Town will receive approximately \$82k from the ARPA Recovery Funds. Supervisor Hynes will move forward in working with Millennium Computers to purchase these products.
- Supervisor Hynes spoke with the Town of Batavia regarding the water hydrants from WD1. They were scheduled to be painted last year but was put on hold due to Covid. They are hoping to change the flags on the hydrant poles by the end of this year and schedule painting for next year. She also suggested they string trim around the hydrants as they are not visible.
- The out of district user agreements with Byron residents have each been signed. The Town of Batavia will put this project out to bid with an outside contractor. Waiting on two houses that were recently sold.
- Jason Foote, Barry Flansburg and Supervisor Hynes have discussed the EDU's. They are continuing to look at the amount of water used by each farm. Final numbers may need to be tweaked but this will be reviewed on an annual basis. They would like members of the Town Board to meet with them to review these numbers. Supervisor Hynes will share the date/time for this meeting as soon as she can.
- Supervisor Hynes received the budget today and will email the budget to members of the Board. There are waiting on figures for health insurance and workers compensation. Once we have these numbers we will schedule a short Special Board meeting to distribute the tentative budget.
- New Town Hall - Wiring, data wiring, fire and intrusion alarms are all installed. Waiting on Spectrum next week and then all the wiring and alarms can be checked to ensure they work. Waiting on furniture too. Keys and passcodes will be passed out to those who need one. Still on target to move in sometime this fall.
- We will move the November Town Board meeting to November 4<sup>th</sup> to meet the budget timeline.

### **Councilpersons**

Councilwoman Marshall shared that she was disappointed that Hecate did not have a town hall style meeting or have their Open House at the school. This would have allowed more people in the town to attend because of the heat that day. Due to Covid, the Town was robbed of the opportunity to have a town hall style meeting. There were also discrepancies in the data they displayed on the boards. The post cards were received late again, some people did not receive them at all. Supervisor Hynes encouraged Councilwoman Marshall to contact Harrison Lune, Hecate with any concerns.

Councilman Coughlin shared the Mr. Sanfratello spoke with each of the presenters at the Hecate Open House, each of them were public relations people who knew nothing about this project. Most of them only

had 12-18 months of experience.

Councilwoman Marshall suggested that Supervisor Hynes inform Hecate that she wants to sign off on any future press releases.

**ADJOURNMENT**

**MOTION** was offered from Councilman Chamberlain second by Councilman Coughlin to adjourn the meeting at 8:55 p.m.

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

**MOTION CARRIED by unanimous vote (4-0)**

Respectfully Submitted,

Trisha Werth  
Town Clerk