

**Town of Elba
Regular Meeting
December 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 Augello
Councilman Chamberlain
Councilman Coughlin
Councilwoman Marshall

Others Present:

Town Clerk Werth
Highway Superintendent Yungfleisch
Christian Yunker, County Legislator

Minutes of November 4, 2021 Public Hearing 1 – Local Law #3 of 2021 – Override Tax Levy Limit

MOTION Councilman Coughlin, 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 November 4, 2021 Public Hearing 2 – 2021 Annual Town Budget

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (5-0)

Minutes of November 5, 2021 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)

PUBLIC PARTICIPATION

Mr. Christian Yunker, County Legislator joined the meeting for an update on the County. Legislator Yunker shared that the County just finished the 2022 budget process. A few of the highlights included the upcoming jail construction and phase two and three of the water projects. Other drivers included the rise in health insurance, mandated services, Covid, cyber security updates, adding a tree cutting crew (hoping they will help with the ash tree issue that we have), bridges and culvert replacements. Looking ahead money was set aside for broadband, the County is close to filling all the holes in the County where internet is missing. Everyone is eager to see what comes of the fire service study. We are hoping for some real ideas as the County is in crisis mode with EMS. A report should be out in a few months from the study that is taking place. Continue to try and manage Covid as a County. Smart Growth is set up to be reviewed this year, they are looking find a balance.

RESOLUTION NO. 57-2021:

**AUTHORIZING THE ADOPTION OF LOCAL LAW NO. 4 OF 2021:
MODIFYING THE WATER CODE OF THE TOWN OF ELBA ORIGINALLY ENACTED JULY 10,**

2012, AS IT PERTAINS TO ADJUSTMENTS OF EQUIVALENT DWELLING UNIT (EDU) FOR AGRICULTURAL & NON-RESIDENTIAL FACILITIES

ADOPTED DECEMBER 9, 2021

The Town Board of the Town of Elba (hereafter the “Town Board”) met at a regular board meeting at the Elba Town Hall located at 7133 Oak Orchard Road, Elba, NY 14058 in the Town of Elba, NY on December 9, 2021 commencing at 7:00 p.m. and thereafter a public hearing was held at 6:55 p.m. and the following members were:

Present: Supervisor Hynes
Council Member Augello
Council Member Chamberlain
Council Member Coughlin
Council Member Marshall

WHEREAS, all Town Board Members having received due notice of said meeting; and

WHEREAS, pursuant to the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place of the meeting was given as required by law; and

WHEREAS, the Town Board is considering a proposed local law entitled: **Local Law No. 4 of 2021: Modifying the Water Code of the Town of Elba Originally Enacted July 10, 2018 As it Pertains to Adjustments of Equivalent Dwelling Unit (EDU) for Agricultural & Non-Residential Facilities**; and

WHEREAS, the purpose of the proposed local law is to delete Section 2.7.2(A) of the Water Code of the Town of Elba originally enacted July 10, 2018 and replace it with a new Section 2.8 immediately following Section 2.7.2 which reads as shown on the attached Exhibit A; and

WHEREAS, Resolution no. 56-2021 was duly adopted by the Town Board authorizing a public hearing to be held by the Town Board on December 9, 2021 at 6:55 p.m. at the Town Hall to hear all interested parties on said local law; and

WHEREAS, notice of said public hearing was duly advertised in the Batavia Daily News, the official newspaper of the Town, on or about December 3, 2021; and

WHEREAS, said public hearing was duly held on December 9, 2021 at 6:55 p.m. at the Town Hall and all parties in attendance were permitted an opportunity to speak on behalf of, or in opposition to, said proposed local law, or any part thereof; and

WHEREAS, the Town Board, after due deliberation, finds it in the best interest of the Town to adopt said local law;

NOW, ON MOTION OF Councilman Chamberlain, which has been duly seconded by Councilman Augello, be it therefore

RESOLVED, that the Town Board hereby adopts **Local Law no. 4 of 2021: Modifying the Water Code of the Town of Elba Originally Enacted July 10, 2018 As it Pertains to Adjustments of Equivalent Dwelling Unit (EDU) for Agricultural & Non-Residential Facilities**; and be it further

RESOLVED, that the Town Clerk be and hereby is directed to enter said local law in the minutes of this meeting and give due notice of the adoption of said local law to the Secretary of the State of New York.

Ayes: Supervisor Hynes
Council Member Augello
Council Member Chamberlain
Council Member Coughlin
Council Member Marshall

Quorum Present: 5 Yes No Carried: 5 Yes No

Dated: December 9, 2021

State of New York)
County of Genesee) ss.:

I, Trisha Werth, Town Clerk of the Town of Elba, NY, hereby certify that the foregoing resolution was duly adopted at a meeting of the Town Board held on December 9, 2021 by the required necessary vote of the members to approve this resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Elba, NY this 9th day of December, 2021.

SEAL

Trisha Werth, Town Clerk

Exhibit A

2.8 Adjustments of Equivalent Dwelling Unit (EDU) for Agricultural & Non-Residential Facilities

The EDU charge for agricultural and non-residential facilities shall be adjusted annually based on the average daily usage using the previous 12 months of actual metered water usage data. If 12 months of actual metered water usage data is not available, the average daily usage shall be calculated using all available metered data.

The gross EDU charge shall be calculated by dividing the average daily usage by 300 GPD, which is the typical daily usage for a residential connection. The gross EDU total then is multiplied by the appropriate multiplier (see table below) and rounded down to the nearest 1.0 EDU to determine the new EDU value.

EDU Multiplier Table

Average Daily Usage	% of Gross EDU
Agricultural & Non-Residential Usage (0 - 1,000 GPD)	100%

Agricultural & Non-Residential Usage (1,001 - 20,000 GPD)	40%
Agricultural & Non-Residential Usage (20,001 - 100,000 GPD)	20%
Agricultural & Non-Residential Usage (+100,000 GPD)	10%

Sample EDU Calculation #1 as follows:

Quarter 1 water usage = 678,000 gallons

Quarter 2 water usage = 683,000 gallons

Quarter 3 water usage = 777,000 gallons

Quarter 4 water usage = 593,000 gallons

Total Annual Water Usage = 2,731,000 gallons

Average Daily Water Usage = 2,731,000 gallons ÷ 365 days = 7,482 gallons/day (GPD)

EDU multiplier = 40% (based on table)

7,482 GPD ÷ 300 GPD = 24.94 EDU (gross)

24.94 EDU (gross) x 40% = 9.976 EDU = **9 EDU (Rounded down)**

Sample EDU Calculation #2 as follows:

Quarter 1 water usage = no data (not connected to system)

Quarter 2 water usage = 84,000 gallons

Quarter 3 water usage = 82,000 gallons

Quarter 4 water usage = 81,000 gallons

Total Water Usage = 247,000 gallons (3 quarters)

Average Daily Water Usage = 247,000 gallons ÷ 273 days = 905 gallons/day (GPD)

EDU multiplier = 100% (based on table)

905 GPD ÷ 300 GPD = 3.02 EDU (gross)

3.02 EDU (gross) x 100% = 3.02 EDU = **3 EDU (Rounded down)**

RESOLUTION #58-2021:

**AUTHORIZING THE ADOPTION OF LOCAL LAW NO. 5 OF 2021
OPT-OUT OF ADULT USE CANNABIS RETAIL DISPENSARIES AND ON-SITE CONSUMPTION
SITES TOWN BOARD TO ADD A NEW CHAPTER TO THE TOWN CODE OF THE TOWN OF**

ELBA TO BE ENTITLED “CANNABIS REGULATION”

Adopted: December 9, 2021

The Town Board of the Town of Elba (hereafter the “Town Board”) met at a regular Board Meeting. At the Elba Town Hall located at 7133 Oak Orchard Rd., Elba, NY 14058 in the Town of Elba, NY on December 9, 2021 commencing at 7:00 p.m. and thereafter a public hearing was held at 6:50 p.m. and the following members were:

Present: Supervisor Hynes
Council Member Augello
Council Member Chamberlain
Council Member Coughlin
Council Member Marshall

WHEREAS, all Town Board Members having received due notice of said meeting; and

WHEREAS, pursuant to the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place of the meeting was given as required by law; and

WHEREAS, the Town Board is considering a proposed local law entitled: **LOCAL LAW NO. 5 of 2021: OPT-OUT OF ADULT USE CANNABIS RETAIL DISPENSARIES AND ON-SITE CONSUMPTION SITES – TOWN BOARD TO ADD A NEW CHAPTER TO THE TOWN CODE OF THE TOWN OF ELBA TO BE ENTITLED “CANNABIS REGULATION”**; and

WHEREAS, the purpose of the proposed local law is to opt-out of adult use cannabis retail dispensaries and on-site consumption sites pursuant to Cannabis Law § 131 and Municipal Home Rule Law § 24; and

WHEREAS, notice of this public hearing was duly advertised in the Batavia Daily News, the official newspaper of the Town, on or about December 7, 2021; and

WHEREAS, said public hearing was duly held on December 9, 2021 at 6:50 p.m. at the Town Hall and all parties in attendance were permitted an opportunity to speak on behalf of, or in opposition to, said proposed local law, or any part thereof; and

WHEREAS, the Town Board, after due deliberation, finds it in the best interest of the Town to adopt said local law;

NOW, ON MOTION OF Councilman Coughlin, which has been duly seconded by Councilwoman Marshall, be it therefore

RESOLVED, that the Town Board hereby adopts **Local Law No. 5 of 2021: OPT-OUT OF ADULT USE CANNABIS RETAIL DISPENSARIES AND ON-SITE CONSUMPTION SITES TOWN BOARD TO ADD A NEW CHAPTER TO THE TOWN CODE OF THE TOWN OF ELBA TO BE ENTITLED “CANNABIS REGULATION”**; and be it further

RESOLVED, that the Town Clerk be and hereby is directed to enter said local law in the minutes of this meeting and give due notice of the adoption of said local law to the Secretary of the State of New York.

Ayes: Supervisor Hynes
Council Member Augello
Council Member Coughlin
Council Member Marshall

Nays: Council Member Chamberlain

Quorum Present: 4 Yes 1 No Carried: 4 Yes 1 No

Dated: December 9, 2021

State of New York)
County of Genesee) ss.:

I, Trisha Werth, Town Clerk of the Town of Elba, NY, hereby certify that the foregoing resolution was duly adopted at a meeting of the Town Board held on December 9, 2021 by the required necessary vote of the members to approve this resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Elba, NY this 9th day of December, 2021.

SEAL

Trisha Werth, Town Clerk

RESOLUTION NO. 59-2021:

Councilman Chamberlain offered the following:

APPOINT ZONING BOARD OF APPEALS MEMBER

RESOLVED, that John Given be appointed to the Elba Joint Village/Town Zoning Board of Appeals effective January 1, 2022 through December 31, 2026.

Second by: Supervisor Hynes

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 60-2021:

Councilwoman Marshall offered the following:

APPOINT BOARD OF ASSESSMENT REVIEW MEMBER

RESOLVED, that Joe Bridge be appointed to the Elba Board of Assessment Review effective October 1, 2021 through September 30, 2026.

Second by: Councilman Coughlin

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 61-2021:

Councilman Coughlin offered the following:

APPOINT PLANNING BOARD MEMBER

RESOLVED, that Brad Mudrzynski be appointed to the Elba Joint Village/Town Planning Board effective January 1, 2021 through December 31, 2026.

Second by: Councilman Augello

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (5-0)

Abstract 12-2021

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

General Fund	272-311	\$48,106.53
Highway	117-137	\$148,038.42
ForeFront Solar	8	\$25.00
Water District 2	31-33	\$79,429.49
	Total	\$275,599.44

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (5-0)

COMMITTEE REPORTS

Building and Grounds

Mr. Yungfleisch reported:

- The office move has been completed. Getting things in order at the old office. They took out the two overhead doors and replaced with windows. Still waiting on the main overhead door to arrive. The record room is now gone and is part of the garage, all records were moved into the former conference room. The old Town Clerk’s office will house signs, the former Supervisor’s office will be a breakroom for the MEO’s and the Assessor’s office will become the Highway Superintendents office. Having the garage out front will offer an area for the trucks to be worked on and the back will be where the trucks and equipment is stored. A total of \$31k has been spent so far. Still need to insulate and complete electric work.

Zoning Board

Mr. Chamberlain reported they have a good crew. The Committee recommended John Given for another five year term. They are working on completing their training hours.

Planning Board

Mr. Coughlin reported the following:

- There was a Public Hearing for the Piscitelli’s for the apartment building at 15 North Main Street. No one from the public attended the hearing, the Genesee County Planning Board has requested the Piscitelli’s either merge the properties for parking purposes or get an easement. They will move forward in getting an easement.
- BW Solar has slowed has not filed their application yet, funding has slowed down from NYSERDA
- NYS Ag and Markets have changed the law that they must review anything over 30 acres to insure it is not prime agricultural land. Forefront project on Norton Road was not required to follow the new laws. However, they reduced some of the footprint to be accommodating to NYSERDA.
- After four PILOT meetings an amount has not been agreed upon. Hecate still has not fully completed their application to ORES, they continue to identify deficiencies.
- The Committee will continue to work on training.

- Dwight Kanyuck, Attorney will write the wind energy law for the Town.

GAM

Councilman Augello reported the surveys will be going out this week for the fire study, MRI hopes to have the report completed by May 2022. There was discussion about the survey the State is sending out regarding statewide broadband. It was also reported at the GAM meeting that Genesee County has one of the lowest vaccination rates in the State.

Cemetery

No report.

DEPARTMENT REPORTS

Highway

Mr. Yungfleisch reported:

- Work continues on converting the old garage at 7 Maple Avenue.
- Had a few days where they had to salt the roads.
- Taking a handful of trees down over the next week.

Assessor

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

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 \$607.88 and remitted \$588.08 to the Supervisor for local share, \$19.00 to NYS Ag. & Markets for spay/neuter program.

We continue to get settled into the new Town Hall at 7133 Oak Orchard Road.

Supervisor

Supervisor Hynes reported the following:

- Mr. Yungfleisch and Supervisor Hynes met with Lawley to review the insurance policy. Everything is in order, there is a \$17.00 increase over last year. They did recommend that we put together a Local Law, "Notice of Highway Defects." They will consider this proactive once the law is enacted and it will help with our annual renewal next year.
- Supervisor Hynes spoke with Dwight Kanyuck, Attorney regarding the Town Wind Law. He said it would take approximately 10 hours for him to complete and would charge us \$2,600.00. He will work on this after the first of the new year.
- The year end meeting will take place December 29th at 3:00 p.m. The organizational meeting and the first meeting of 2021 will be held.
- The phone system has not been ported over yet from 7 Maple Avenue. Supervisor Hynes has been working on this for three weeks and learned today it was not set up properly. She finally found help with someone at Enterprise of WNY, this is apparently the company that helps municipalities. Hoping to have this issue solved over the next week.

Councilpersons

Councilwoman Marshall reminded everyone that the Fire District will have their elections December 14th at

the Fire Hall in the Village from 5-7:00 p.m. Mr. Kevin Dart is up for re-election.

ADJOURNMENT

MOTION was offered from Councilman Chamberlain, second by Councilwoman Marshall to adjourn the meeting at 7:52 p.m.

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (5-0)

Respectfully Submitted,

Trisha Werth
Town Clerk