

**Town of Elba
Regular Meeting
November 10, 2022**

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
Superintendent of Highways Yungfleisch
Chuck Hoover, Planning and Wind/Solar Committee Chair
Rick Sanfratello, Zoning Board Chair
Steve Hyde, GCEDC, exited meeting at 8:07 p.m.
Jim Krencik, GCEDC, exited meeting at 8:07 p.m.
Dan Huntington, BW Solar
Dwight Kanyuck, Attorney, Knauf Shaw, entered meeting at 7:42 p.m.

PUBLIC PARTICIPATION

Steve Hyde and Jim Krencik with GCEDC were in attendance to provide a presentation on the Hecate Energy Cider Solar project. A copy of the presentation is available in the Town Clerk's office.

Minutes of October 13, 2022 Town Board Meeting

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

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 26-2022:

Supervisor Hynes offered the following:

ADOPTION OF 2023 TOWN ANNUAL BUDGET

WHEREAS, the Elba Town Board hereby adopts the Town Budget for 2023; and be it further

NOW, THEREFORE, BE IT RESOLVED, that the Elba Town Board approves the budget as prepared with a copy attached hereto.

Second by: Councilman Chamberlain

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (5-0)

RESOLUTION #27-2022:

Councilman Chamberlain offered the following:

APPROVAL OF OFFICIAL UNDERTAKING FOR TAX COLLECTION

[The Official Undertaking/Bond must be filed with the County Clerk and have attached thereto the approval of the Town Board as set forth below.]

APPROVAL OF THE ELBA TOWN BOARD

We, the undersigned members of the Town Board of the Town of Elba, County of Genesee, State of New York, do hereby approve the attached undertaking or bond as to its form, manner of execution, amount and sufficiency thereof, and to the sureties names thereon. Said undertaking or bond shall be conditioned that the collector of the taxes shall well and truly keep, pay over and account for all moneys and property coming into her/his hands as such collector.

Witnessed this 10th day of November, 2022.

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

[Approval may also be in the form of a copy of the Resolution with the corresponding certification of the Town Clerk.]

Pursuant to Sections 25, 35, 36 and 37 of the Town Law of the State of New York

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

RESOLUTION #28-2022:
Councilman Augello offered the following:

AUTHORIZE DELINQUENT WATER BILL TO BE RE-LEVIED ON THE 2023 WARRANT

WHEREAS, the Town Clerk has received a list of all property owners who owe for water rents in Water Districts #1 and #2, to the Town of Batavia as of October 31, 2022; 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 amount of \$290.10, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 4061 Batavia Elba Townline Road, Oakfield, NY 14125, parcel #10.-1-37.22;

BE IT FURTHER RESOLVED, the amount of \$242.65, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 7626 Bank Street Road, Elba, NY 14058, parcel #12.-1-62;

BE IT FURTHER RESOLVED, the amount of \$333.75, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 6616 Snyder Road, Oakfield, NY 14125, parcel #16.-1-31.2;

BE IT FURTHER RESOLVED, the amount of \$126.45, or may be amended before final submission to the

Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 4090 Maltby Road, Oakfield, NY 14125, parcel #19.-1-65.12;

BE IT FURTHER RESOLVED, the amount of \$52.07, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 4963 Barrville Road, Elba, NY 14058, parcel #17.-1-21;

BE IT FURTHER RESOLVED, the amount of \$309.73, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 6576 Log City Road, Elba, NY 14058, parcel #18.-1-56.2;

BE IT FURTHER RESOLVED, the amount of \$66.95, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 6742 Oak Orchard Road, Elba, NY 14058, parcel #8.-1-7;

BE IT FURTHER RESOLVED, the amount of \$74.39, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 5461 Bridge Road, Elba, NY 14058, parcel #9.-1-7.121;

BE IT FURTHER RESOLVED, the amount of \$148.34, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 6830 Transit Road, Elba, NY 14058, parcel #9.-1-9;

BE IT FURTHER RESOLVED, the amount of \$178.53, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 4735 Bridge Road, Elba, NY 14058, parcel #8.-1-31.1;

BE IT FURTHER RESOLVED, the amount of \$854.27, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 4764 Bridge Road, Elba, NY 14058, parcel #8.-1-30.113;

BE IT FURTHER RESOLVED, the amount of \$252.92, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 6529 Oak Orchard Road, Elba, NY 14058, parcel #17.-1-49.1;

BE IT FURTHER RESOLVED, the amount of \$193.40, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 6556 Miller Road, Elba, NY 14058, parcel #17.-1-36.2;

BE IT FURTHER RESOLVED, the amount of \$229.47, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 6438 Graham Road, Elba, NY 14058, parcel #16.-1-7.111;

BE IT FURTHER RESOLVED, the amount of \$238.03, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 6733 Luddington Road, Elba, NY 14058, parcel #8.-1-20.211;

BE IT FURTHER RESOLVED, the amount of \$126.45, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 5854 Quaker Hill Road, Elba, NY 14058, parcel #13.-1-33.2;

BE IT FURTHER RESOLVED, the amount of \$235.49, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at

4011 Lockport Road, mailing address 3701 Regent Blvd Suite 200, Irving, TX 75063, parcel #16.-1-27.2;

BE IT FURTHER RESOLVED, the amount of \$265.10, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 6737 Oak Orchard Road, Elba, NY 14058, parcel #8.-1-8.111;

BE IT FURTHER RESOLVED, the amount of \$111.58, or may be amended before final submission to the Genesee County Treasurer, be and is hereby approved for levying against the individuals 2023 tax warrant at 3834 Drake Street Road, Oakfield, NY 14125, parcel #10.-1-3;

Second by: Councilman Coughlin

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (5-0)

CERTIFICATION

I, Trisha Werth, Town Clerk of the Town of Elba, County of Genesee and State of New York, DO HEREBY CERTIFY that I have compared the aforementioned resolution duly adopted by the Town Board of the Town of Elba, on the 10th day of November, 2022 with the original now on file in my office, and the same is a correct and true copy of said Resolution and of the whole thereof.

Dated: November 10, 2022

Trisha Werth
Town Clerk

{SEAL}

RESOLUTION NO. 29-2022:

Councilman Chamberlain offered the following:

APPOINT BOARD OF ASSESSMENT REVIEW MEMBER

RESOLVED, that Rick Buckley be appointed to the Elba Board of Assessment Review effective October 1, 2022 through September 30, 2027.

Second by: Councilman Coughlin

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 30-2022:

APPROVE AUTHORIZING THE RELEVY OF OUTSTANDING WATER DEBT SERVICE CHARGE ON TOWN/COUNTY REAL PROPERTY TAXES

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 November 10, 2022 commencing at 7:00 p.m. and the following members were:

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

Council Member Marshall

Absent: None

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 has in place certain Water Customer Agreements whereby the Town provides water to certain out-of-district customers; and

WHEREAS, the Town has one such Water Customer Agreement in place with A. Elizabeth Prinzi, residing at 7069 Transit Rd., Elba, NY 14058, for service to property located at 7069 Transit Rd., Town of Byron, County of Genesee, and State of New York by and through the Town of Elba Water District No. 2; and

WHEREAS, said agreement calls for a debt service charge of \$711.54 for the year 2022 with payment to be made within forty-five (45) days after receipt of the statement showing such charge; and

WHEREAS, the Town duly provided a statement to the customer for payment of the debt service charge at the time of signing the agreement; and

WHEREAS, forty-five (45) days have elapsed since the customer's receipt of said statement; and

WHEREAS, pursuant to N.Y. Town Law § 198(3)(a), if a property owner fails to pay the uniform service charge, a statement showing the name of the property owner and the amount unpaid and containing a brief description of the real property shall be transmitted to the board of supervisors of the county and such amount shall be levied and collected as an assessment against the real property;

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

RESOLVED, that the Town Board hereby acknowledges and declares that the above-referenced customer has not paid their debt service fee for the year 2022, and the debt service fee owed has been outstanding for a period greater than forty-five (45) days; and be it further

RESOLVED, that the Town Board hereby directs the Town Clerk to transmit to the Genesee County Board of Supervisors a statement showing the name of the property owner and the amount of debt service charges left unpaid along with a brief description of the real property and a request that said outstanding amount be levied and collected as an assessment against the real property.

Ayes: Supervisor Hynes
Council Member Augello
Council Member Chamberlain
Council Member Coughlin
Council Member Marshall
Absent: None

Nays: None Abstained: None

Quorum Present: X Yes No Carried: 5 Yes 0 No

Dated: November 10, 2022

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 November 10, 2022 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 14 day of November, 2022.

Trisha Werth, *Town Clerk*

RESOLUTION NO. 31-2022:

Councilman Chamberlain offered the following:

**INTRODUCTION OF THE CIDER SOLAR
PROJECT FINANCIAL TERM SHEET FOR CONSIDERATION**

WHEREAS, on July 25, 2022, the Hecate Energy Cider Solar LLC (“Hecate”) was issued a Siting Permit for a Major Renewable Energy Facility (the “Permit”) by the State of New York Office of Renewable Energy Siting (“ORES”), pursuant to Executive Law Section 94-c (“Section 94-c”), for a 500-megawatt solar energy facility to be located in the Towns of Elba and Oakfield (the “Cider Solar Project”); and

WHEREAS, Section 94-c and the Permit require that Hecate provide host community benefits for the Cider Solar Project, such as Payments in Lieu of Taxes (PILOTs), other payments pursuant to a host community agreement (“Host Agreement”), and utility bill reductions; and

WHEREAS, after extensive negotiations facilitated by the Genesee County Economic Development Center (“GCEDC”), GCEDC, the host taxing jurisdictions, including the Towns of Elba and Oakfield, Genesee County and the host school districts, and Hecate have reached an agreement on the financial terms for the PILOT and Host Agreements for the Cider Solar Project, which agreement, entitled Cider Solar Project Financial Term Sheet (“Term Sheet”), is annexed hereto as Exhibit A: and

WHEREAS, the Term Sheet would form the basis for the financial terms of a 30-year PILOT agreement (“PILOT Agreement”) and Host Agreement between Hecate and the Town of Elba (“Elba Host Agreement”) for the Cider Solar Project, which would memorialize and make binding the financial benefits to the Town of Elba from the Cider Solar Project, as summarized in Exhibit A, Exhibit C, and Exhibit E to the Term Sheet; and

WHEREAS, a public hearing on the financial terms proposed in the Term Sheet will be held by the GCEDC on November 28 at 5:00 PM at the Elba Firemen’s Recreation Hall, located at 7143 Oak Orchard Road.

NOW THEREFORE BE IT RESOLVED, that the Board introduces the Term Sheet for review to consider approval of the Term Sheet and authorization of the Town Supervisor to execute the PILOT Agreement and Elba Host Agreement on behalf of the Town of Elba so long as the PILOT Agreement and Elba Host Agreement are substantially consistent with the terms of the Term Sheet.

Second by: Supervisor Hynes

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

APPROVED by unanimous vote (5-0)

ABSTRACT 11-2022

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

General Fund	267-298	\$21,199.89
Highway	127-139	\$6,738.45
Water District 2	14	\$2,995.00
	Total	\$30,933.34

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (5-0)

COMMITTEE REPORTS

Building and Grounds

No report.

Zoning Board

Councilman Chamberlain stated the Zoning Board discussed reorganization for 2023.

Planning Board

Councilman Coughlin reported:

- Eleanor Rice land separation was approved.
- Dan Huntington with BW Solar had attended Planning Board meeting to introduce himself and was seeking an extension on their special use permit. The extension was approved. He shared that there have been many delays due to COVID.

Councilman Coughlin made a **MOTION**, second by Councilman Augello to accept the recommendation of the Planning Board to extend the duration of the special use permit to May 21, 2023, with an extension available through December 31, 2023.

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (5-0)

GAM

Councilman Augello shared there was not a quorum for the last meeting so they had a round table instead. Meeting invitations will be sent out for next year.

Cemetery

Councilman Chamberlain will be in touch with Mr. Davis to see how he is doing and check his availability for next year. Mr. Yungfleisch stated he spoke with Mr. Davis who shared as long as his health is good he will continue.

DEPARTMENT REPORTS

Highway

Mr. Yungfleisch shared the trucks were rust coated, barn is full of salt, there are a lot of trees to cut, trees behind the shop were taken down and removed and they are getting ready for winter.

Assessor

No report. Please feel free to reach out to Mr. Flansburg at anytime with questions.

ZEO/CEO

Mr. Morris' monthly report was emailed and is also available in the Town Clerk's office. He spoke with our Town Attorney, John Whiting regarding the property on Lockport Road. Mr. Whiting is reviewing our Zoning Laws.

Town Clerk

Town Clerk Werth reported that she took in \$401.16 and remitted \$374.06 and \$27.00 to NYS Ag. & Markets for spay/neuter program.

Supervisor

Supervisor Hynes reported:

- No news on comprehensive plan.
- A VP with Blue Sky called and offered to buy out the Town's contract. After conversation it was decided the Board is not interested.

New Business

Chuck Hoover introduced Dan Huntington with BW Solar. Mr. Huntington shared the reasons behind their need for an extension on this project. They hope to start construction by April 2023.

Discussion took place regarding Cider Solar Project with Hecate. Mr. Kanyuck explained the breakdown if the PILOT. Also shared that the State would most likely have a third party oversee the code and zoning matters. This would be stated in the host placed. Mr. Sanfratello expressed his concerns with the solar project and the hit it will take on our community.

COUNCILPERSONS

Councilman Coughlin thanked Mr. Kanyuck for his help.

Councilwoman Marshall wanted to mention what a great job Elba Betterment Committee did with the scarecrow contest again this year. There were a lot of great displays.

ADJOURNMENT

MOTION was offered from Councilman Chamberlain second by Councilman Augello to adjourn the meeting at 8:37 p.m.

Ayes: Augello, Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (5-0)

Respectfully Submitted,

Trisha Werth
Town Clerk