

**Town of Elba
Regular Meeting
April 11, 2019**

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
Ron Snyder, Resident
John Given, Resident

Absent:

Councilwoman Zambito

Minutes of March 14, 2019 Town Board Meeting:

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

Ayes: Chamberlain, Coughlin, Hynes, Marshall

MOTION CARRIED by unanimous vote (4-0)

Public Participation:

Mr. Snyder asked to speak with the Board about his property that connects with Town property. He would like to purchase a section of the land, 20x116 to increase the size of the driveway near his home. The Board will review his request.

Councilwoman Zambito arrived at 7:03 p.m.

RESOLUTION NO. 11-2019

Councilman Chamberlain offered the following:

CLOSING OF ROADS FOR ARC OF GENESEE ORLEANS FRIENDS & FAMILY 5K

WHEREAS, the Arc of Genesee Orleans Friends & Family 5K, has scheduled a 5K race to take place on Saturday, September 21, 2018, 9:50 A.M.-10:50 A.M. in Elba, New York.

WHEREAS, the proposed race will start on Barrville Road, Elba, New York and includes portions of Bridge Road and Luddington Road and ends at the Genesee ARC facility on Barrville Road,

WHEREAS, the Town Board of the Town of Elba has determined that it is necessary to close portions of Barrville Road, Bridge Road and Luddington Road in the Town of Elba, New York as described herein in order to adequately protect the health, safety and welfare of the participants in the race and spectators along said route, and

BE IT FURTHER RESOLVED AND ORDERED that the Town Clerk of the Town of Elba, New York shall post a copy of this Resolution and Order on the signboard maintained at her office on or before August 1, 2019, and shall remain posted until Monday, September 21, 2018.

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

RESOLUTION NO. 12-2019

Councilman Chamberlain offered the following:

**AMENDING RESOLUTION NO. 61-2016 TO
AUTHORIZE INCREASED AMOUNT FOR LEGAL SERVICES IN THE WATER DISTRICT NO 2
PROJECT AND TO AUTHORIZE SUPERVISOR TO SIGN AMENDED
LEGAL SERVICES AGREEMENT BETWEEN THE TOWN OF ELBA
AND WEBSTER, SCHUBEL & MEIER, LLP**

WHEREAS, the Town of Elba (the “Town”) and Webster, Schubel & Meier, LLP (the “Attorney”) entered into a Legal Services Agreement (USDA form 1780-7) dated December 8, 2016 whereby the Attorney agreed to perform all legal services for the Water District No. 2 project at the rate of \$165.00 per hour, not to exceed \$20,625.00, and

WHEREAS, given the unanticipated scope and volume of matters present in the Water District No. 2 project requiring legal services, the not to exceed amount of \$20,625.00 is insufficient, and

WHEREAS, the Town hereby determines that it is necessary and appropriate to raise the current not to exceed amount from \$20,625.00, **NOW THEREFORE**, be it

RESOLVED, the current not to exceed amount for legal services in the Water District No. 2 project be increased by the sum of \$10,230.00 so that the revised not to exceed amount shall be in the sum of \$31,250.00 to be paid at the rate of \$165.00 per hour, and be it further

RESOLVED, the Town Supervisor is hereby authorized to sign an amended Legal Services Agreement in form satisfactory to USDA Rural Development.

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

RESOLUTION NO. 13-2019

Councilman Coughlin offered the following resolution after receiving a recommendation to the Town Board from the Town Attorney, David Schubel, Esq., which authorizes the Town Supervisor to sign the IMA subject to approval by local counsel:

**AGREEMENT BY COUNTY OF GENESEE
AND TOWN OF ELBA FOR PHASE 2
WATER CONSTRUCTION PAYMENTS**

THIS AGREEMENT, made the _____ day of _____, 2019, by and between the County of Genesee, a municipal corporation of the State of New York, with offices located at Old County Courthouse, 7 Main Street, Batavia, New York, 14020 (hereinafter “County ”), and the Town of Elba, a municipal corporation of the State of New York, with its offices located at 7 Maple Avenue, Elba, NY 14058 (hereinafter “Elba”).

WITNESSETH:

WHEREAS, The County has begun the process to provide additional water capacity for the county-wide water system in the amount of approximately 2.4 million gallons per day to be supplied from the Monroe County Water Authority, as set forth in a document entitled “Engineering Report for the Genesee County Phase 2 Water Supply Project” (hereinafter “Phase 2”), and

WHEREAS, several of the local municipalities will be undertaking water projects to include construction of portions of the Phase 2 improvements that are eligible for grants and low interest financing through USDA Rural Development and other programs, and

WHEREAS, in order to reduce the total cost for county water users, it would be mutually beneficial to the local municipalities and the County to have these municipalities pursue these funding sources for their projects as part of the County’s project, and

WHEREAS, the County will provide contributions to help these towns construct larger local water facilities on a more affordable basis, and

WHEREAS, this approach will allow the County to defer a portion of the total Phase 2 project costs, and

WHEREAS, Elba is in the process of establishing a water project designated as the Town of Elba Water District No. 2.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is agreed as follows:

1. The County will pay to Elba payments not to exceed the amount of nine hundred ninety-five thousand dollars (\$995,000.00)
2. The total payments were calculated based upon the estimated costs of the improvements in the Phase 2 water facilities to be constructed in the Town of Elba, consisting of the following water facility improvements (hereinafter “improvements”):
 - a. upsize water storage tank
 - b. tank disinfection system
 - c. upsize Norton Road mains (PH1)
 - d. upsize Norton Road mains (PH3)
 - e. additional water main on Log City Road
3. The County’s Project Engineers shall inspect and certify completion of each respective phase of the improvements.
4. After completion of the respective improvements, the County will pay to Elba the portion of the total payments that represents the construction costs for each improvement, within forty-five (45) days of each compliance certification by the County’s Project Engineers.
5. This Agreement may not be assigned by either party either in whole or in part, without the prior written consent of the other party, and any assignment in violation of the foregoing shall be deemed void.
6. This Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto, and its successors and permitted assigns.

7. This Agreement and any transactions between the parties hereunder shall be governed by, construed and interpreted in accordance with the laws of the State of New York.
8. There are no other Agreements or understandings, either oral or written, between the parties affecting this Agreement; and no changes or additions or deletions of any portions of this Agreement shall be valid or binding upon the parties hereto, unless the same is approved in writing by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers to be effective as of the day and year first above-written.

TOWN OF ELBA

(SEAL)

By: _____
 DONNA HYNES
 TOWN SUPERVISOR

COUNTY OF GENESEE

(SEAL)

By: _____
 ROBERT BAUSCH
 LEGISLATIVE CHAIR

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

ABSTRACT 4-2019

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

General Fund	67-91	\$ 9,072.02
Highway	33-43	\$ 26,735.89
Water District 2	22-23	<u>\$225,705.53</u>
	TOTAL	\$261,513.44

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

COMMITTEE REPORTS

Building and Grounds

The MEO's and Mr. Yungfleisch are hauling dirt from the Water Project to the extended portion of the cemetery. Genesee Soil and Water has a new seeder and offered it to us. This will be a great help.

Zoning Board

- The ZBA is still looking for a member.
- A letter of complaint was received regarding 7351 Bank Street Road(Janiga). The complaint stated the residence is a three family home versus the two family home it is zoned for. CEO/ZEO

Mikolajczyk sent the complainant a letter stating the claim was unfounded.

- Mr. Contant will leave copies of the minutes for Town Clerk Werth to scan and email to the Town Supervisor and Village Mayor.
- Councilman Chamberlain will be attending the solar seminar at the County.

Planning Board

- Councilman Coughlin stated he and Frank Kowalski would be attending the solar seminar as well.
- Resident Jeff Rowcliffe brought in a Mylar copy of his proposed land separation on Oak Orchard Road. Upon review of the Short Environmental Assessment Form and completed Ag Data Statement. Payment of town fees has been made.
- Resident Jamie Janiga attended the meeting as well. He would like to follow through on his plans to turn his property into a three family home. After discussing with ZEO/CEO Mikolajczyk, the Planning Board to recommend Mr. Janiga to the Genesee County Planning Board for site plan review.

GAM

Supervisor Hynes was unable to attend the March meeting. She will attend the April meeting and Councilwoman Marshall will attend the May meeting.

Cemetery

Steve Davis contacted Councilman Chamberlain regarding a request he received from the Harrington family. They would like to use a rough cut stone as a headstone. Steve was looking for direction from the Town Board. Councilman Chamberlain toured the other cemeteries in Elba and found rough cut stones. The Board is of the opinion that there are no constraints.

Publicity

The Arc of Genesee Orleans sent a flyer regarding their Family 5k on September 21, 2019.

DEPARTMENT REPORTS

Highway

Superintendent of Highways Yungfleisch reported:

- The crew is hauling dirt from the water project to the expanded cemetery lot on Maple Avenue.
- The salt in the barn will need to last until January – we should be all set.
- There are 13 culverts that will need to be changed when it dries out.
- CPL said we will receive the finances necessary to continue fixing the roadsides over the years due to the ground settling.
- The crew picks up approximately 30 tires a year from the sides of the road and recycles them.

Assessor

No report.

ZEO/CEO

Mr. Mikolajczyk's report will be emailed to everyone once it is received.

Town Clerk

Town Clerk Werth reported that she took in \$2,238.27 and remitted \$2,168.27 to the Supervisor for local share, \$25.00 to NYS Ag. & Markets for spay/neuter program and \$45.00 to the New York State Department of Health.

We continue to collect the Water Service Applications for the Town of Batavia.

Taxes – We settled with the County on April 10.

Supervisor

Supervisor Hynes reported:

- An outside auditor with Lee Walter will be here on April 22 and 23, 2019 to review Water District 2 documents.
- We are looking to upsize tank from 350k gallons to 750k gallons. Should have an answer in the next few days, at that time they will order the tank.
- Sexual Harassment training will need to take place soon. Looking for a day in June that everyone can attend. Will contact Tom Graham in Oakfield to see if he can provide the training.
- Meeting with Mark Meyerhoffer, representative for Charter Communications (locally known as Spectrum/Time Warner) on May 26. Will check with him on the possibility of town-wide internet and cable service.

Councilpersons

Councilwoman Marshall asked if Byron turned down the County Tax agreement. Supervisor Hynes said they did originally but are going back to the table.

We need to get a solar plan in place as soon as possible.

Councilman Chamberlain read an article that stated drivers cannot be ticketed in school zones. Councilman Chamberlain also read an article on the Cambria Town Board. They are considering restrictions to “protect the safety of their residents” in regard to the Right to Farm Law. They discussed putting these restrictions on wineries and the sunflower market, hoping to limit the hours, traffic and noise. The Town residents and businesses showed up at the meeting to view their opinions.

ADJOURNMENT

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

Ayes: Chamberlain, Coughlin, Hynes, Marshall, Zambito

MOTION CARRIED by unanimous vote (5-0)

Respectfully Submitted,

Trisha Werth
Town Clerk