

**Town of Elba  
Regular Meeting  
January 9, 2020**

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  
CEO/ZEO Mikoljczyk  
Barbie Starowitz

**Minutes of December 26, 2019 Year End 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)**

**January 2, 2020 Organizational 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)**

**RESOLUTION #4-2020:**

Councilman Coughlin offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW NO. 1 OF 2020 AND TO SCHEDULE  
A PUBLIC HEARING**

**WHEREAS**, the Town Board of the Town of Elba, New York desires to consider adopting legislation to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor within the Town of Elba, also known as Town of Elba Local Law No. 1 of the Year 2020.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Elba, New York that proposed Local Law No. 1 of the Year 2020 entitled "Town of Elba Solar Energy Local Law", which proposed Local Law is now in its final form, be and the same hereby is introduced for adoption; and

**BE IT FURTHER RESOLVED** that said proposed Local Law be laid upon the desks of the members of this Town Board on this date, and a copy thereof be kept on file in the Office of the Town Clerk and that a public hearing be held before this Town Board on the 13<sup>th</sup> day of February, 2020 at 7:00p.m. at the Elba Town Hall, 7 Maple Avenue, Elba, New York, on the advisability of enacting said proposed Local Law; and

**BE IT FURTHER RESOLVED** that a copy of said proposed Local Law be mailed to each member of the Town Board not in attendance at this meeting in a postpaid, properly addressed and securely closed

envelope in a post box within the Town of Elba, New York not less than ten (10) calendar days, exclusive of Sunday, prior to the date of said public hearing; and

**BE IT FURTHER RESOLVED** that the Town Clerk shall cause notice of said public hearing to the published once in The Daily News at least five (5) days prior to the date of said public hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk’s office, and that notice of said public hearing be posted on the official sign board of the Town Clerk as required by law.

**NOTICE OF PUBLIC HEARING BY THE TOWN BOARD OF THE TOWN OF ELBA,  
NEW YORK TO CONSIDER ADOPTING A PROPOSED LOCAL LAW  
ENTITLED TOWN OF ELBA SOLAR ENERGY LOCAL LAW**

**PUBLIC NOTICE** is hereby given that there has been presented to the Town Board of the Town of Elba, New York on the 9<sup>th</sup> day of January, 2020, proposed Local Law No. 1 of the Year 2020, entitled “TOWN OF ELBA SOLAR ENERGY LOCAL LAW”. Said Local Law may be summarized as making provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment access to sunlight necessary therefor within the Town of Elba. Said Local Law establishes Tier 1, Tier 2, and Tier 3 Solar Energy Systems and permitting requirements therefor. This Local Law also provides that any violation of this Solar Energy Local Law shall be subject to the same enforcement requirements, including civil and criminal penalties, provided for in the zoning or land use regulations of the Town of Elba.

**PLEASE TAKE FURTHER NOTICE** that on the 13<sup>th</sup> day of February, 2020, at 6:50p.m. the Town Board of the Town of Elba will conduct a public hearing at the Elba Town Hall located at 7 Maple Avenue, Elba, New York, for the purpose of considering the advisability of enacting said proposed Local Law, at which time and place all persons will be heard.

**PLEASE TAKE FURTHER NOTICE** that this notice represents only a summary of the proposed Local Law. A copy of said proposed Local Law is on file at the office of the Elba Town Clerk, 7 Maple Avenue, Elba, New York and is open for inspection during regular office hours.

Dated: January 9<sup>th</sup>, 2020  
Elba, New York

Trisha Werth  
Town Clerk of the Town of Elba, New York

Local Law Filing New York State Department of State  
99 Washington Avenue, Albany, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  
City of Elba, Genesee County, New York  
Town  
Village

Local Law No. 1 of the year 2020.

A local law Solar Energy Local Law  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

~~County~~  
~~City~~ of Elba, Genesee County, New York as follows:  
~~Town~~  
~~Village~~

1. Authority

This Solar Energy Local Law is adopted pursuant to sections 261-263 of the Town Law and section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town of Elba to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town of Elba law of New York State, “to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.”

2. Statement of Purpose

A. This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of Town of Elba by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

- 1) To take advantage of a safe, abundant, renewable and non-polluting energy resource;
- 2) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
- 3) To increase employment and business development in the Town of Elba, to the extent reasonably practical, by furthering the installation of Solar Energy Systems, and;
- 4) To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources.

3. Definitions

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM**: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

**FARMLAND OF STATEWIDE IMPORTANCE**: Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

**GLARE**: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

**NATIVE PERENNIAL VEGETATION:** native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

**POLLINATOR:** bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

**PRIME FARMLAND:** Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

**SOLAR ACCESS:** Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

**SOLAR ENERGY EQUIPMENT:** Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

**SOLAR ENERGY SYSTEM:** The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

- a. Roof-Mounted Solar Energy Systems
- b. Building-Integrated Solar Energy Systems

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to 25 kW AC and that generate no more than 110 % of the average monthly electricity consumption on the site averaged over the previous 12 months.

C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

**SOLAR PANEL:** A photovoltaic device capable of collecting and converting solar energy into electricity.

**STORAGE BATTERY:** A device that stores energy and makes it available in an electrical form.

4. Applicability

A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in Town of Elba after the effective date of this Local Law, excluding general maintenance and repair.

B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.

C. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5 % of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.

D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and the Town of Elba Code.

#### 5. General Requirements

A. A Building permit shall be required for installation of all Solar Energy Systems.

B. Local land use boards are encouraged to condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.

C. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review.

#### 6. Permitting Requirements for Tier 1 Solar Energy Systems

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

##### A. Roof-Mounted Solar Energy Systems

1) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:

- a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.
- b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
- c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
- d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

2) Glare: All Solar Panels shall have anti-reflective coating(s).

3) Height: All Roof-Mounted Solar Energy Systems shall comply with the height limitations in Appendix 3.

B. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

7. Permitting Requirements for Tier 2 Solar Energy Systems

All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be exempt from site plan review under the local zoning code or other land use regulations, subject to the following conditions:

A. Glare: All Solar Panels shall have anti-reflective coating(s).

B. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.

C. Height: Tier 2 Solar Energy Systems shall comply with the height limitations in Appendix 3.

D. Screening and Visibility.

- 1) All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
- 2) Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.

E. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

8. Permitting requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems are permitted through the issuance of a Tier 3 Solar Special Use Permit, and subject to site plan application requirements set forth in this Section.

A. Applications for the installation of Tier 3 Solar Energy System shall be:

- 1) Reviewed by the Code Enforcement Officer for completeness. Applicants shall be advised within 15 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
- 2) Subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town of Elba shall have a notice printed in a newspaper of general circulation in the Town of Elba at least 5 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 200 feet of the property at least 15 business days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.
- 3) Referred to the Genesee County Planning Department pursuant to General Municipal Law § 239-m if required.

- 4) Upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and applicant.

B. Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

C. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

D. Signage.

- 1) No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet.
- 2) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

E. Glare. All Solar Panels shall have anti-reflective coating(s).

F. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

G. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible, and no clearing of shrubland or woodland greater than 0.1 acre will be allowed.

H. Streams, wetlands, and drainage. Tier 3 solar development will observe a 500 ft setback from regulated NYSDEC and US Army Corps of Engineers wetlands, will not alter the bed or banks of regulated streams, and will not impact the natural drainage patterns found in adjacent uplands.

I. Decommissioning.

- 1) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 1 year shall be removed at the Owner and/or Operators expense, which at the Owner's option may come from any security made with the Town of Elba as set forth in Section 10(b) herein.
- 2) A decommissioning plan (see Appendix 4) signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:
  - a. The cost of removing the Solar Energy System.
  - b. The time required to decommission and remove the Solar Energy System any ancillary structures.
  - c. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

3) Security.

- a. The deposit, executions, or filing with the Town of Elba Clerk of cash, bond, or other form of security reasonably acceptable to the Town of Elba attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125% of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 3% annually for the life of the Solar Energy System. The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.
- b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town of Elba, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
- c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Section 10(b) and 10(c) herein.

J. Site plan application. For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:

- 1) Property lines and physical features, including roads, for the project site.
- 2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
- 3) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- 4) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- 5) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 6) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- 7) Zoning district designation for the parcel(s) of land comprising the project site.
- 8) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.



- 9) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- 10) Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

K. Special Use Permit Standards.

1) Lot size

The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements in Appendix 1.

2) Setbacks

The Tier 3 Solar Energy Systems shall meet the setback requirements in Appendix 2.

3) Height

The Tier 3 Solar Energy Systems shall comply with the height limitations in Appendix 3 depending on the underlying zoning district.

4) Lot coverage

a. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:

- I. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
- II. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
- III. Paved access roads servicing the Solar Energy System.

b. Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement of the underlying zoning district.

5) Fencing Requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7' fence, as required by NEC, with a self-locking gate to prevent unauthorized access.

6) Screening and Visibility.

a. Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

b. Solar Energy Systems larger than 10 acres shall be required to:

- I. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to be submitted by the applicant.
- II. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.
  - i. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of a minimum of 2 evergreen tree species native to New York, at least 6 feet tall at time of planting, plus 4 supplemental native shrubs species at the reasonable discretion of the Town of Elba Planning Board, all planted within 10 linear feet of the Solar Energy System, or distance deemed practicable by the mature diameter of tree species selected. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. Planted tree and shrub survivorship of less than 75% after two growing seasons or visual screening of less than 75% after five growing seasons as viewed from houses on adjacent properties will require additional plantings at the expense of the owner/operator.

7) Agricultural Resources. For projects located on agricultural lands:

- 1) To the maximum extent practicable, Tier 3 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
- 2) Tier 3 Solar Energy System owners shall develop, implement, and maintain habitat as outlined in Section 9 below and in Appendix 4.

L. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, original terms and conditions of a lease agreement with property owner (if applicable), site plan approval, pollinator habitat management, and decommissioning plan. If the successor owner or operator does not assume these obligations in writing and the land the solar system was built on is leased from another individual or entity, the successor owner or operator must assume the full cost of decommissioning and site restoration and must pay the land owner 30% of the remaining cost of the lease. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change.

9. Solar Development in Agricultural Districts

All Tier 3 installations shall be subject to the requirements, regulations, and assessments outlined in “Solar Installations in Agricultural Districts”, as written by New York State Energy and Research Development Agency (NYSERDA). These guidelines allow for a conversion penalty to be assessed if a solar installation provides more than 110% of the energy required to operate a farm enrolled in an agricultural district. Full guidelines can be found at the following link: <https://www.nyserda.ny.gov/-/media/NYSun/files/understanding-solar-installations-in-ag-fs.pdf>.

#### 10. Habitat Installation and Maintenance

The Town of Elba has elected to require all Tier 3 solar developers/operators to install and maintain habitat as a way to mitigate losses of farmland and to give back to natural ecosystems and the agricultural community. All habitat activities will be paid for by the developer, with no costs assumed by the landowner if the land is leased. Repeated deficiencies identified in bi-annual monitoring and subsequent inaction on behalf of the solar developer/operator may result in revocation of the special-use permit and required decommissioning. Examples of native habitat plantings include pollinator and wildlife habitat. The developer is encouraged to consult with the landowner to develop a planting they deem as the best fit. A full planting, maintenance, and monitoring plan must be submitted to and approved by the Town, with the assistance of Genesee County Soil and Water Conservation District or other technical agency, prior to the issuance of a special use permit. Planting plans must provide native cover to at least 80% of the Tier 3 solar array, with no invasive or weedy species used. Performance standards and adaptive management guidelines must be included in the planting plan to ensure continued success.

#### 11. Maintenance and Upgrades

A. An owner/developer is allowed and encouraged to perform general maintenance and upgrades to a Tier 3 Solar Energy System to ensure maximum generation, efficiency, safety, and aesthetics. These activities will not require a new Special Use Permit provided that they fall under the following categories:

- 1) Replacement or upgrades that do not disturb soil, including replacement of panels on existing poles/structures, fencing (including direct replacement of poles that may disturb ground), and other activities that are direct replacements for existing features that do not expand the acreage or height of the Tier 3 Solar Energy System, or otherwise create substantial ground disturbance.
- 2) Planting and maintenance of required landscaping plants.
- 3) Emergency repairs for safety purposes.

B. Upgrades that increase the footprint or height of an existing Tier 3 Solar Energy System, create a ground disturbance of at least 0.1 acres (including all phases), or may cause an increase in noise or visibility will require a new Special Use Permit and/or building permit.

#### 12. Safety

A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.

B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.

C. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of

in accordance with the laws and regulations of the Town of Elba and any applicable federal, state, or county laws or regulations.

13. Permit Time Frame and Abandonment

A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months, provided that a building permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 18 months after approval, the applicant or the Town of Elba may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.

B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town of Elba may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.

C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Elba may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

14. Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Town of Elba.

15. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

**APPENDIX 1: LOT SIZE REQUIREMENTS**

The following table displays the size requirements of the lot for Ground-Mounted Solar Energy Systems to be permitted.

**Table 1: Lot Size Requirements**

<b>Zoning District</b>	<b>Tier 3 Solar Energy Systems</b>
Residential	≥ 2 acres
Commercial / Business	≥ 5 acres
Agricultural / Residential	≥ 5 acres

**Key:**

--: Not Allowed

N/A: Not Applicable

### APPENDIX 2: PARCEL LINE SETBACKS

The following table provides parcel line setback requirements for Ground-Mounted Solar Energy Systems. Fencing, access roads and landscaping may occur within the setback.

**Table 2: Parcel Line Setback Requirements**

	<b>Tier 3 Ground-Mounted</b>		
<b>Zoning District</b>	<b>Front</b>	<b>Side</b>	<b>Rear</b>
Residential	100'	100'	100'
Commercial / Business	30'	15'	25'
Agricultural / Residential	30'	15'	25'

**Key:**

--: Not Allowed

### APPENDIX 3: HEIGHT REQUIREMENTS

The following table displays height requirements for each type of Solar Energy Systems. The height of systems will be measured from the highest natural grade below each solar panel.

**Table 3: Height Requirements**

	<b>Tier 1 Roof-Mounted</b>	<b>Tier 2</b>	<b>Tier 3</b>
<b>Zoning District</b>			
Residential	2' above roof	10'	--
Commercial / Business	4' above roof	15'	20'
Agricultural / Residential	2' above roof	15'	20'

**Key:**

--: Not Allowed

### APPENDIX 4: EXAMPLE DECOMMISSIONING PLAN

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at:

[Solar Project Address]

Prepared and Submitted by [Solar Developer Name], the owner of [Solar Farm Name]

As required by [Town/Village/City], [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for 12 months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 48 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.
4. Disturbed soils must be have subsoils buried and covered by at least 6 inches of native topsoil that is free of large rocks typical of subsoil.
5. All soil disturbed during decommissioning will be stabilized within two weeks with a perennial grass stabilization mix applied using standard NYSDEC erosion and sediment control methods and seeding rates applicable for the season, soil type, and slope.

All said removal and decommissioning shall occur within 12 months of the Facility ceasing to produce power for sale.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2020, of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of Elba, New York was duly passed by the Town Board on \_\_\_\_\_, 2020, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the ~~(County)~~ ~~(City)~~ ~~(Town)~~ (Village) \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 2010, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2020 of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 2020, and was by the \_\_\_\_\_ on \_\_\_\_\_ 2020. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2020 of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of \_\_\_\_\_ was duly passed by the Board of Trustees (Name of Legislative Body) on \_\_\_\_\_ 2020, and was (approved) ~~(not disapproved)~~ ~~(repassed after disapproval)~~ by the \_\_\_\_\_ on \_\_\_\_\_ 2018. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 2020, in accordance with the applicable provisions of law.

**\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

(SEAL)

\_\_\_\_\_  
Trisha Werth  
Town Clerk, Town of Elba

Date:

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

**RESOLUTION #5-2020:**  
Supervisor Hynes offered the following:

**RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW NO. 2 OF 2020  
AND TO SCHEDULE A PUBLIC HEARING**

**WHEREAS**, the Town Board of the Town Elba, New York desires to consider adopting legislation to enable the Town of Elba to opt out of all energy system real property tax assessment exemptions afforded pursuant to Real Property tax Law section 487, also known as Town of Elba Local Law No. 2 of the Year 2020.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Elba, New York that proposed Local Law No. 2 of the Year 2020 entitled “A LOCAL LAW PURSUANT TO SECTION 487 (8) OF THE REAL PROPERTY TAX LAW TO ELIMINATE A TAX EXEMPTION FOR CERTAIN ENUMERATED ENERGY SYSTEMS”, which proposed Local Law is now in its final form, be and the same hereby is introduced for adoption; and

**BE IT FURTHER RESOLVED** that said proposed Local Law be laid upon the desks of the members of this Town Board on this date, and a copy thereof be kept on file in the Office of the Town Clerk, and that a public hearing be held before this Town Board on the 13<sup>th</sup> day of February, 2020 at 7:00pm at the Elba Town Hall, 7 Maple Avenue, Elba, New York on the advisability of enacting said proposed Local Law; and

**BE IT FURTHER RESOLVED** that a copy of said proposed Local Law be mailed to each member of the Town Board not in attendance at this meeting in a postpaid, properly addressed and securely closed



envelope in a post box within the Town of Elba, New York not less than ten (10) calendar days, exclusive of Sunday, prior to the date of said public hearing; and

**BE IT FURTHER RESOLVED** that the Town Clerk shall cause notice of said public hearing to the published once in The Daily News at least five (5) days prior to the date of said public hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk’s office, and that notice of said public hearing be posted on the official sign board of the Town Clerk as required by law.

**NOTICE OF PUBLIC HEARING BY THE TOWN BOARD OF THE TOWN OF ELBA, NEW YORK TO CONSIDER ADOPTING A PROPOSED LOCAL LAW TO OPT OUT OF ENERGY SYSTEM REAL PROPERTY TAX EXEMPTIONS**

**PUBLIC NOTICE** is hereby given that there has been presented to the Town Board of the Town of Elba, on the 9<sup>th</sup> day of January, 2020 proposed Local Law No. 2 of the Year 2020. Said Local Law provides that the Town of Elba shall not permit any exemption within its jurisdiction pursuant to section 487 of the Real Property Tax Law with respect to any energy system constructed or installed subsequent to the effective date of the Local Law. The purpose of the Local Law is to enable the Town of Elba to opt out of all energy system real property tax assessment exemptions afforded pursuant to Real Property Tax Law section 487.

**PLEASE TAKE FURTHER NOTICE** that on the 13<sup>th</sup> day of February, 2020 at 6:55pm the Town Board of the Town of Elba, New York will conduct a public hearing at the Elba Town Hall, 7 Maple Avenue, Elba, New York for the purpose of considering the advisability of enacting said proposed Local Law, at which time and place all persons interested will be heard.

**PLEASE TAKE FURTHER NOTICE** that a copy of said Local Law may be inspected at the Office of the Elba Town Clerk, 7 Maple Avenue, Elba, New York, during regular business hours.

Dated: January 9, 2020  
Elba, New York

Trisha Werth  
Town Clerk of the Town of Elba, New York

Local Law Filing New York State Department of State  
99 Washington Avenue, Albany, NY 12231  
\_\_\_\_\_  
(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  
City of Elba, Genesee County, New York  
Town  
Village

Local Law No. 2 of the year 2020.

A local law Pursuant to Section 487(8) Of The Real Property Tax Law To Eliminate A Tax Exemption For Certain Enumerated Energy Systems  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

~~County~~  
~~City~~ of Elba, Genesee County, New York as follows:  
~~Town~~  
~~Village~~

**Section 1.**

Pursuant to Section 487(8)(a) of the Real Property Tax Law, no tax exemption under section 487(2) of the Real Property Tax Law shall be applicable to Town of Elba real property taxes, with respect to any energy systems as currently defined anywhere within Section 487 of the Real Property tax Law, and any amendments thereto, which begins construction subsequent to the effective date of Local Law.

**Section 2.**

This Local Law shall take effect upon filing with the Secretary of State, the New York State Department of Taxation and Finance, and the New York State Energy Research and Development & Authority (NYSERDA).

**Section 3. Severability**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in it separation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 4. Effective Date**

This local law shall take effect immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2020, of the (~~County~~) (~~City~~) (~~Town~~) (~~Village~~) of Elba, New York was duly passed by the Town Board on \_\_\_\_\_, 2020, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2020 of the (~~County~~) (~~City~~) (~~Town~~) (~~Village~~) \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 2020, and was (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 2020, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2020 of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 2020, and was by the \_\_\_\_\_ on \_\_\_\_\_ 2020. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on \_\_\_\_\_ 2020, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2020 of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of \_\_\_\_\_ was duly passed by the Board of Trustees (Name of Legislative Body) on \_\_\_\_\_ 2020, and was (approved) ~~(not disapproved)~~ ~~(repassed after disapproval)~~ by the \_\_\_\_\_ on \_\_\_\_\_ 2020. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 2020, in accordance with the applicable provisions of law.

**\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2020 of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on \_\_\_\_\_ 2020, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2020 of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 2020, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.) I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

(SEAL)

\_\_\_\_\_  
Trisha Werth  
Town Clerk, Town of Elba

Date:

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

**RESOLUTION #6-2020:**

Councilman Chamberlain offered the following:

**RESOLUTION RESCINDING RESOLUTION NO. 28 OF 2019 – AUTHORIZING APPLICATION FOR COMPTROLLER APPROVAL OF ORDER OF THE TOWN BOARD OF THE TOWN OF ELBA INCREASING THE MAXIMUM AMOUNT TO BE EXPENDED ON WATER DISTRICT NO. 2**

**RESOLVED**, the Elba Town Board hereby rescinds Resolution No. 28-2019, adopted September 26, 2019 entitled Authorizing Application for Comptroller Approval of Order of the Town Board of the Town of Elba Increasing the Maximum Amount to be Expended on Water District No. 2.

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

**RESOLUTION #7-2020:**

Councilman Coughlin offered the following:

**RESOLUTION AUTHORIZING APPLICATION FOR COMPTROLLER APPROVAL OF ORDER OF THE TOWN BOARD OF THE TOWN OF ELBA INCREASING THE MAXIMUM AMOUNT TO BE EXPENDED ON WATER DISTRICT NO. 2**

**WHEREAS**, the Elba Town Board has elected to pursue an increase in the maximum amount to be expended on Water District No. 2; and

**WHEREAS**, the Town Board has heretofore authorized and directed David C. Schubel, Attorney for the Town of Elba, to prepare an application for submission to the New York State Comptroller for approval of an Order of the Town Board of Elba Increasing The Maximum Amount To Be Expended On Water District No. 2;

**NOW, THEREFORE, BE IT RESOLVED**, that the attached application was prepared at the direction of this Board, and is hereby approved as to form and content; and be it further

**RESOLVED**, that this Board believes the content of such application to be accurate; and be it further;

**RESOLVED**, that this Board has and does hereby determine that the proposed increase in the maximum amount to be expended is in the public interest of the inhabitants of the Town of Elba, and will not constitute an undue burden on the property which will bear the cost thereof; and be it further

**RESOLVED**, that all of the real property proposed to be assessed for the proposed increase will be benefitted, and that no benefitted property has been excluded; and be it further

**RESOLVED**, that the Town Board of the Town of Elba does hereby direct Supervisor Donna J. Hynes to sign the Comptroller's Application for approval increasing the maximum amount to be expended

on Water District No. 2 as prepared by Attorney David C. Schubel, and authorizes submission of the Application to the Office of the State Comptroller.

**Second by:** Councilman Chamberlain

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

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

**RESOLUTION #8-2020:**

Councilman Coughlin offered the following:

**AUTHORIZING CLOSING AND ACCEPTANCE OF TITLE  
FOR GRATUITOUS DONATION BY M&T BANK FOR ITS FORMER  
BANK BRANCH BUILDING AT 7133 OAK ORCHARD  
ROAD AND EXECUTION OF ATM LEASE AND AGREEMENT WITH M&T BANK FOR SPACE  
AT 7133 OAK ORCHARD ROAD**

**WHEREAS**, the Town Board adopted Resolution No. 6-2019 on February 14, 2019 whereby the Town of Elba accepted the offer of M&T Bank to donate M&T's former bank branch building situate at 7133 Oak Orchard Road (the "Property") for no consideration, and

**WHEREAS**, M&T Bank is desirous of leasing space in the donated building consisting of approximately 144 square feet and attendant customer accommodations (the ATM and attendant accommodations collectively, the "Facility"), and

**WHEREAS**, M&T has agreed to transfer title to the Property to the Town without consideration, and

**WHEREAS**, the Town and M&T Bank are desirous to make the ATM Lease and Agreement to provide for the continued operation of the Facility after the transfer of title to the Property to the Town, and

**WHEREAS**, the space to be leased is unnecessary for the governmental functions of the Town and will be discernable from the remainder of the property known as 7133 Oak Orchard Road, and

**WHEREAS**, the Town Board hereby determines that it is in the public interest to allow ATM services for the use of citizens of the Town and the general public, now therefore be it

**RESOLVED**, that the Town board hereby authorizes the Town Supervisor to execute an ATM Lease and Agreement with M&T Bank and also such other documents as may be required to effectuate the intent of this resolution, and in conjunction with acceptance of title to the Property, and be it further

**RESOLVED**, that the Supervisor of the Town of Elba be, and she hereby is, authorized to proceed to formal closing with M&T Bank and to execute an ATM Lease and Agreement with M&T Bank and to execute such other documents as are necessary to accept title and effect the gratuitous conveyance and permit recordation of the deed in the Genesee County Clerk's Office, and be it further

**RESOLVED**, that payment of all the fees and recording costs in connection with the matters set forth hereinabove including recording deed, RP-5217 and TP-584 are hereby authorized and further that the real property taxes levied and assessed to the Property shall be pro-rated as of the date of conveyance and Town of Elba shall be responsible of its pro-rata share is hereby authorized.

**Second by:** Councilman Chamberlain

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

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

**ABSTRACT 1-2020**

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

General Fund	1-19	\$39,860.28
Highway	1-11	\$15,252.30
Water District 2	1-2	\$516,440.30
	<b>Total</b>	<b>\$571,552.88</b>

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

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

**COMMITTEE REPORTS**

**Building and Grounds**

Mr. Yungfleisch reported he is replacing a ceiling fan in the shop.

**Zoning Board**

Councilman Chamberlain reported the Zoning Board held their organizational meeting. John Babcock will continue as Chairman, this will be his last term (ends 2023). Richard Contant will continue as Secretary, this will be his last year though. The Zoning Board is encouraging the Town Board to find new members. Mr. Contant provided Town Clerk Werth with a list of meeting dates for 2020 to be published.

**Planning Board**

Councilman Coughlin reported that they will have their organizational meeting in February. They continued to discuss the solar and wind plans. They sent a draft copy of the solar plan to the Village but have not heard back from them yet.

**GAM**

Councilman Coughlin will attend the February meeting.

**Cemetery**

No issues to report.

**Publicity**

Town Clerk Werth passed around an invitation from Homeland Security and Emergency Services regarding a training program they are hosting on Disability Education and Awareness for Municipalities on January 24, 2020 at the Amherst Police Department.

**DEPARTMENT REPORTS**

**Highway**

Mr. Yungfleisch offered the Agreement for the Expenditure of Highway Moneys to the Board. Each member in attendance signed.

- Continuing to put black top on the roads.
- Adding stone where needed for the water project
- More salt is coming in for the roads.

**Assessor**

No report.

**ZEO/CEO**

Mr. Mikolajczyk’s year end report was emailed and is also available in the Town Clerk’s office.

**Town Clerk**

Town Clerk Werth reported that she took in \$858.07 and remitted \$830.07 to the Supervisor for local share, \$28.00 to NYS Ag. & Markets for spay/neuter program.

### **Supervisor**

Supervisor Hynes reported that the three trucks have arrived with components for the water tower. Caldwell is the company assembling the tank and they are currently backed up two weeks.

The Internal Audit for Judge King will take place February 12<sup>th</sup> at 2 p.m. and then travel to Elba to complete the audit of the Supervisor and Town Clerk.

### **Councilpersons**

Councilman Coughlin reported he and Councilwoman Marshall are taking the Board Member training offered by Association of Towns this week. Councilwoman Marshall said the new Councilperson should sign up for this class when it is available again. This was a great training.

Councilwoman Marshall discussed the fire that recently took place in Holley. We should look into developing a policy for chain of command during a water outage. Mr. Yungfleisch informed the Board that Town of Batavia's Paul Barrett informs Fire Chief Mike Heale when there is an outage. Councilwoman Marshall would like to see a chain of command list created.

Councilwoman Marshall asked when copies of financial reports arrives to the Town Office. Town Clerk Werth reported they are emailed the day of the monthly Board Meeting.

Councilman Chamberlain stated they are installing Spectrum cable lines to the three properties North of the Village.

### **PUBLIC PARTICIPATION**

Barbie Starowitz attended the meeting to discuss her issue with her neighbor at 7351 Bank Street Road. Ms. Starowitz states she received the information from her latest FOIL request on January 8, 2020. She extensively reviewed the data received in the FOIL request with the Town Board. Ms. Starowitz asked why it is considered a single family dwelling when it is referred to as a two family house in the documents provided. She questioned where the permit was for changing it into a two family home. She states she has asked Mr. Mikolajczyk, ZEO/CEO several times for this issue to be addressed. Ms. Starowitz asked that the Town Board to contact her in writing with how this will be handled.

At 8:04 p.m. Councilwoman Marshall made a **MOTION** seconded by Councilman Coughlin to adjourn to Executive Session for matters concerning employment history and personnel issues.

At 8:27 p.m. Councilwoman Marshall made a **MOTION** seconded by Councilman Coughlin to move from Executive Session to Public Session and reconvene the regular meeting in order to continue with conduct of business.

The Town Board asked Town Clerk Werth to review Town Board minutes and see when the State enforced the Towns to appoint a Code Enforcement Officer. Early Code Enforcement Officer's kept records at home and we are not sure if everything was handed into the Town Clerk when they exited the position. Town Clerk Werth will email Ms. Starowitz and assure her that the Town Board is looking for a solution and investigating how this issue can be rectified.

### **ADJOURNMENT**

**MOTION** was offered from Councilwoman Marshall second by Councilman Chamberlain to adjourn the meeting at 8:57 p.m.

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

Respectfully Submitted,

Trisha Werth  
Town Clerk