

**Town of Elba  
Regular Meeting  
December 10, 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 Augello  
Councilman Chamberlain  
Councilman Coughlin  
Councilwoman Marshall

**Others Present:**

Town Clerk Werth  
Highway Superintendent Yungfleisch  
Chuck Hoover, Planning Board Chairman  
Dwight Kanyuck, Attorney, Knauff Shaw – entered meeting at 7:30 p.m. and exited at 8:00 p.m.

**Minutes of November 5, 2020 Public Hearing 1 – Local Law #3 of 2020 – Override Tax Levy Limit**

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

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

**MOTION CARRIED by unanimous vote (5-0)**

**Minutes of November 5, 2020 Public Hearing 2 – 2021 Annual Town Budget**

**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)**

**Minutes of November 5, 2020 Town Board Meeting**

**MOTION** Councilman Chamberlain, second by Councilwoman Marshall to approve the minutes as written.

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

**MOTION CARRIED by unanimous vote (5-0)**

**PUBLIC PARTICIPATION**

At 7:30 p.m. Councilwoman Marshall introduced Dwight Kanyuck, an Attorney with Knauf Shaw. He is working with a couple of other towns regarding solar. He will work with the town to help advise them of incentives, legal guidelines, escrow, etc. He has sent us a letter of intent and is joining us tonight to explain the process.

Mr. Kanyuck started by giving a background on how he has worked with other municipalities. For the last two years he has represented a number of towns with large renewable siting proceedings under Article 10. They are representing the Town of Barre with their wind project, Town of Caledonia for a large solar project and reviewing/reworking their solar law. His firm has quite a bit of experience representing agricultural communities and have done quite a bit of Article 10 representation. Mr. Kanyuck explained the process and background of the 94-C. This is all being driven by the renewable energy goals of the State and the 94-C allows the process to move quicker. The local law is what the Siting Office refers too. They are going to try to make sure they are adhered too. They can override the local laws and there is a standard they have a to

demonstrate that the law is unreasonably burdensome. He did review our current law, it looked good and felt there was some thought put into it and it provided protections. Willing to go through the Law to make sure it is consistent with the Town's current thinking on land process.

Councilwoman Marshall asked Mr. Kanyuck to discuss the incentives for the Town/community. They can help with large projects; the Town's participate in these proceedings as a party and they are provided funding via the developer through NYSEERDA as they manage the account. The fund receives \$1k per megawatt, the funds can be used for the Town's to hire technical and legal consultants to assist with participating in the process. The proposed project for Elba is a 500 megawatt project, split between two towns. The local agency fund for this would be \$500k. There is 75% of these funds set aside for municipalities, 25% can be awarded to community groups if they meet certain criteria. This enables the Town to participate, influence and make representation if available. The Town's are required now to provide the community host benefit. Also, the availability of a PILOT with the developer. An example Mr. Kanyuck provided was the Heritage Wind project in Barre where they negotiated a combined community host payment and a PILOT agreement of \$9k per megawatt. Mr. Kanyuck stated Barre would receive 75% of that total. These large projects do have economic benefits to the Town, there will be substantial revenue resulting from the solar projects. Couple of other offers that require the Public Service Commissioner to look at providing the utility customers of the host communities with a discount on electric bills from the projects. There is a proposal for this that could possibly provide \$500 per year payment that essentially gets passed through to the residents. This depends on the population of the host community that could amount to a \$50-\$100 credit per year.

The smaller projects, less than 20 megawatts have certain incentives too for community solar. The local Planning Boards review and approve these applications.

Councilwoman Marshall asked if we should have an engineer. Mr. Kanyuck recommended that the Town begin to engage an engineer. Assuming this large project goes through, it is a very fast time line. It is slightly more than sixty days. They will meet with the Town and go over the project, they will submit their application sixty days later and the Town then has thirty days to request intervenor funds. Sixty days after the application is submitted it will probably be deemed complete and the Town will have sixty days to put together a statement that says whether or not the developer complies with our local laws. This is why he would recommend an engineer or environmental consultant who does this type of review. Councilman Augello asked that Mr. Kanyuck confirm that the cost for the engineer comes from that account. Mr. Kanyuck stated it is eligible for reimbursement. He stated the engineers are typically a firm, with individual specialties. He felt it was good to have a team in place before the developer arrives. The new process basically removes the public engagement piece.

Councilwoman Marshall asked Mr. Kanyuck's opinion on starting a Solar/Wind Committee. He would recommend doing so with a Town Board member, attorney, Planning and Zoning Board representative, Code Enforcement Officer, etc. This would be the right group of people to revisit the local law and ensure it is protecting what is important to the Town.

Mr. Hoover asked what a good number would be for a Solar Coordinator with a community solar project. Mr. Kanyuck mentioned Shawn Grasby, a floating Code Enforcement Officer. He commonly asks for \$10k. What does not get used is refunded to the developer. Mr. Hoover asked if the money in the intervenor funds would solely be used for legal, engineer and coordinator fees or would it need to be shared with opposing groups. Mr. Kanyuck stated it would be used for the Town's expenses not community groups for small solar projects. There is legal authority for large projects with the 94-C process to potentially share 25% with the community groups.

Supervisor Hynes asked if we needed a Solar Coordinator if we have an Attorney and Engineer. Mr. Kanyuck stated Mr. Grasby does help out other Code Enforcement Officers and offers advice. He did not think you needed to have a Solar Coordinator as your Code Enforcement Officer could serve that role. Mr. Grasby is very familiar with managing solar projects. Each Town is different with their needs.

At 8:00 p.m. the Town Board thanked Mr. Kanyuck for joining them and he exited the meeting.

Councilman Coughlin made a **motion**, second by Councilwoman Marshall for the Town Board to engage with Dwight Kanyuck, Attorney with Knauff Shaw for solar projects.

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

**APPROVED by unanimous vote (5-0)**

Supervisor Hynes will sign the letter of intent and scan a copy to Mr. Kanyuck. Councilwoman Marshall will connect with Mr. Kanyuck tomorrow to let him know we voted to engage and that we give our Planning Board Chair authority to work with him on our behalf.

Mr. Hoover stated that ForeFront is anxious to get started and send a check to the Town. He is not sure how quickly the Town Board wants to get moving on Mr. Kanyuck reviewing this project. He could also advise ForeFront that there are changes coming with the solar law that may happen after their application goes through so they are not shocked by this.

We will move forward with approving the SEQRA request at the December 29, 2020 meeting. This will be sent to Mr. Kanyuck to review along with the site plan for the ForeFront project.

Mr. Hoover has spoken with Harrison Luna, Hecate Energy, he is anxious to speak with an attorney on the behalf of Elba. His job is to make sure that the Town is satisfied with what happens on this project. They all seem willing to work with the attorneys for the Town's benefit.

Councilwoman Marshall made a **motion**, second by Councilman Coughlin to engage an engineering firm.

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

**APPROVED by unanimous vote (5-0)**

Councilwoman Marshall made a **motion**, second by Supervisor Hynes to appoint a Solar/Wind Committee, consisting of a Planning Board member, Zoning Board member, Code Enforcement Officer, one or two Town Board members, attorney, engineer, and one or two community members.

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

**APPROVED by unanimous vote (5-0)**

Members of the Solar/Wind Committee will include Councilwoman Marshall, Councilman Coughlin, ZEO Mikolajczyk, Chuck Hoover representing the Planning Board, Rick Sanfratello representing the Zoning Board, Dwight Kanyuck, Attorney, and the engineer the Town engages with.

**RESOLUTION NO. 43-2020:**

Councilman Coughlin offered the following:

**JANITORIAL CONTRACT WITH ARC OF GENESEE ORLEANS**

**RESOLVED**, that the Town of Elba enter into a month to month Janitorial Contract with Arc of Genesee Orleans, 64 Walnut Street, Batavia, NY for the provision of custodial services at the Town Hall at a rate of

\$162.54 per month effective January 1, 2021.

**Second by:** Councilwoman Marshall

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

**APPROVED by unanimous vote (5-0)**

**Abstract 12-2020**

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

General Fund	261-290	\$11,435.53
Highway	147-166	\$32,902.73
Water District 2	58-65	\$277,015.17
	<b>Total</b>	<b>\$321,353.43</b>

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

**MOTION CARRIED by unanimous vote (5-0)**

**COMMITTEE REPORTS**

**Building and Grounds**

No report.

**Zoning Board**

Mr. Chamberlain reported Mr. Richard Contant has tendered his letter of resignation effective December 31, 2020 from the Zoning Board.

**RESOLUTION NO. 44-2020:**

Councilman Chamberlain offered the following:

**APPOINT ZONING BOARD OF APPEALS MEMBER**

**RESOLVED,** that Rick Sanfratello be appointed to the Elba Joint Village/Town Zoning Board of Appeals effective December 10, 2020 to fill an unexpired term, ending December 31, 2024.

**Second by:** Councilwoman Marshall

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

**APPROVED by unanimous vote (5-0)**

- Mr. Chamberlain also report that Mr. John Babcock will resign in June and Mr. Elton Shuknecht will also resign early this year. Two members will need to be replaced in the coming year. Town Clerk Werth will put a notice on the webpage and post in the school newsletter that we are in need of new members.
- Mr. Hoover said there was the possibility of arranging three alternates from the Planning Board, allowing the ZBA to have quorum at their meetings.
- They will wait until their January meeting to select a Chairman and Secretary.
- Sexual Harassment Training - Town Clerk Werth emailed everyone an invite to the training on December 16, 2020 at the Town of Oakfield Government and Community Center.

**Planning Board**

Mr. Hoover reported:

- Mr. Schlesinger and Mr. Higgins attended the meeting to represent ForeFront Energy regarding

the proposed Mudrzynski project on Norton Road. They are working towards completing the SEQRA.

- They do not need to send community solar projects to the County however, they would like them to review it.
  - The Planning Board would like to encourage having legal and engineering consultation on solar projects. Councilwoman Marshall has connected with Dwight Kanyuck, Attorney with Knauf Shaw who will join the meeting in a bit.
  - The 94- regulations for solar will not be final until April, 2021.
  - Mr. Schubel drew up a resolution with intentions for the Planning Board to take the Lead Agency for SEQRA. This will be tabled for review. This needs to be put into place before moving forward. Mr. Hoover will reach out via email to Felipe Oltramari, Genesee County Department of Planning Director on his opinion. He will ask Felipe to copy in the Town Board on his response.
- Adam Howard resigned from the Planning Board. Frank Kowalski will bring a resident with him to the next meeting to observe and see if he is a good fit.
  - Town Clerk Werth sent an email to all Planning Board members regarding the Sexual Harassment training on December 16, 2020.

### **GAM**

Supervisor Hynes did not attend the meeting.

### **Cemetery**

No report.

### **DEPARTMENT REPORTS**

#### **Highway**

Mr. Yungfleisch shared the following:

- Getting quite a few items fixed in the shop due to the light winter.
- Trimming trees, including a large tree at the Edgerton Road Cemetery. They will take care of a few in the center of the cemetery when in the Spring.
- Leaving approximately \$200k in the account for what was lost with CHiPS.
- Looking to bring in more crushed stone to use for paving in the Spring.

#### **Assessor**

No report.

#### **ZEO/CEO**

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

#### **Town Clerk**

Town Clerk Werth reported that she took in \$270.00 and remitted \$248.00 to the Supervisor for local share, \$22.00 to NYS Ag. & Markets for spay/neuter program. We collected \$712.09 for NYSDEC and submitted \$40.91 to the Supervisor for local share.

#### **Supervisor**

Supervisor Hynes reported the following:

- Closed on WD2 loan, \$13,800,000.00 with a 1.25% interest rate. Supervisor Hynes was grateful to all who stepped up to move this along quickly.

- WD2 – Phase 4 – The water tower is almost complete, just a short punch list of items to complete in the Spring. The fence is installed, a lock was put in place and everything is working well.
- New Town Hall – The asbestos removal was completed. The bid package for renovations will be placed in the paper next week with plans to open bids at the end of January 2021. This will allow us to award the bid at the February 2021 meeting.
- Sandy our Court Clerk will be staying. NY Court Justice has requested that in person proceedings cease at this time. Sandy will continue working to process mail in tickets.
- Dave Schubel, Town Attorney – Mr. Schubel is in the process of retiring. He committed to stay on with us through the end of the WD2 project. However, that is taking a bit longer than anticipated. Mr. Schubel will stay on through the end of March 2021. We need to start looking for a new Town Attorney and set up interviews.
- Our Bookkeeper is no longer with Baldwin Business Services. Working with M&T and Justin at Baldwin to get our account passwords and tokens switched over to new Bookkeeper, Sam.
- Meetings – Supervisor Hynes made a **motion** to have the End of the Year meeting December 29<sup>th</sup> at 3:00 p.m. and the Organizational meeting will be held January 7<sup>th</sup> at 6:30 p.m., immediately followed by our regular monthly meeting. Town Clerk Werth will post these notices in the paper, on the website and at the Town Office.

**Second by:** Councilman Coughlin

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

**APPROVED by unanimous vote (5-0)**

- Fire Chief Mike Heale will attend a future Town Board meeting to give an update on the Fire Department/District. Supervisor Hynes shared that the special grain bin rescue equipment donated to the Fire Department from the Torrey family a few years ago was put to use a few weeks ago. A gentleman in Oakfield was trapped in a grain bin and thanks to this equipment and the training of the Fire Department and the home/farm owners he was rescued. Fire Chief Heale is working with other Fire Departments, Emergency Management and County Dispatch to ensure Elba is dispatched straight away with these types of emergencies. Councilwoman Marshall discussed the need for an additional grain bin rescue tool to assist if a firefighter were to become trapped as well. She will look into a possible program through Nationwide Insurance as well as using the funds they receive from the Torrey family to get a second tool in place.
- Starting the construction of the cell tower at the transfer station.

### **Councilpersons**

Councilwoman Marshall stated the youth winter basketball league will be cancelled this season. Brian Brinkman, the program Director is hoping to schedule some special sessions later this season.

### **ADJOURNMENT**

**MOTION** was offered from Councilman Chamberlain second by Supervisor Hynes to adjourn the meeting at 8:27 p.m.

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

**MOTION CARRIED by unanimous vote (5-0)**

Respectfully Submitted,

Trisha Werth  
Town Clerk