

**Town of Elba  
Regular Meeting  
May 12, 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

**Minutes of April 14, 2022 Town Board Meeting**

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

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

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

**RESOLUTION #16-2022:**

Councilman Chamberlain offered the following:

**INTRODUCE PROPOSED LOCAL LAW NO. 3 OF 2022 AND  
TO SCHEDULE A PUBLIC HEARING**

**WHEREAS**, the Town Board of the Town of Elba, New York desires to consider adopting “Prior Written Notice Model”, also known as Town of Elba Local Law No. 3 of 2022. This Law essentially makes a plaintiff provide written notice to the Town prior to an incident/accident to make a claim against the Town for the condition of highways, etc.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board for the Town of Elba, New York that proposed Local Law No. 3 of 2022 entitled “Prior Written Notice Model”, which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, be and the same hereby is introduced for adoption; and

**BE IT FURTHER RESOLVED** that said proposed Local Law was given to the members of this Town Board on this date and remain with them and a copy thereof be kept on file in the office of the Town Clerk until June 8, 2022, and that a public hearing be held before this Town Board on the 9<sup>th</sup> day of June 2022 at 6:50 p.m. at the Elba Town Hall, 7133 Oak Orchard Road, Elba New York, on the advisability of enacting said proposed Local Law; and

**BE IT FURTHER RESOLVED** that the Town Clerk shall cause notice of said public hear to be 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.

Second by: Councilman Coughlin

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

### **NOTICE OF PUBLIC HEARING**

Please Take Notice that the Elba Town Board will conduct a public hearing at the Elba Town Hall, 7133 Oak Orchard Road, Elba, New York on Thursday, June 9, 2022 at 6:50 p.m. on the enactment of a Local Law known as Local Law No. 3 of 2022, Prior Written Notice Model. It is the intent of this Local Law to provide written notification of defects and obstructions on Town highways, bridges, streets, sidewalks, crosswalks and culverts in the Town of Elba.

At such public hearing, all persons, either for or against the same, shall be heard.

By Order of the Elba Town Board  
Trisha Werth, Town Clerk

### **TOWN OF ELBA**

### **LOCAL LAW NUMBER 3 OF 2022**

### **PRIOR WRITTEN NOTICE MODEL LOCAL LAW NOTICE OF HIGHWAY DEFECTS**

### **BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF ELBA AS FOLLOWS:**

A Local Law providing for written notification of defects and obstructions on Town highways, bridges, streets, sidewalks, crosswalks and culverts in the Town of Elba.

Be it enacted by the Town Board of the Town of Elba.

Section 1. No civil actions shall be maintained against the town or town superintendent of highways for damages or injuries to person or property sustained by reason of any highway, bridge, street, sidewalk, crosswalk or culvert being defective, out of repair, unsafe, dangerous, or obstructed unless written notice of such defective, unsafe, dangerous, or obstructed condition of such highway, bridge, street, sidewalk, crosswalk or culvert was actually given to the town clerk or town superintendent of highways, and there was a failure or neglect within a reasonable time after giving of such notice to repair or remove the defect, danger, or obstruction complained of.

No such action shall maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, street, sidewalk, crosswalk or culvert, unless written notice thereof, specifying the particular place, was actually given to the town clerk of town superintendent of highways and there was failure or neglect to cause such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

Section 2. The superintendent of highways shall transmit in writing to the town clerk within five days after the receipt thereof all written notices received pursuant to this local law. The town clerk shall cause all written notices received pursuant to this local law to be presented to the town board within five days of the receipt thereof or at the next succeeding town board meeting, whichever shall be sooner.

Section 3. This local law shall supersede in its application to the New York Law 65-a of the Town Law.

Section 4. This local law shall take effect immediately upon its filing in the office of the Secretary of State.

Please note that Town Law Section 65-a requires the Clerk to keep a separate indexed record (by location) of all such notices received. In the event of litigation, the Town will be expected to demonstrate compliance with this provision.

Such a local law must contain a requirement that any prior written notice of dangerous or defective conditions that is submitted pursuant to its terms must be transmitted to the town clerk or highway superintendent.

The locally adopted law must comply with the requirements for adoption of local laws generally, such as it must be filed with the Secretary of State.

The Town Clerk must keep a separate indexed (according to location) record of all notices received pursuant to the prior written notice statute or superseding local law.

**ABSTRACT 5-2022**

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

General Fund	110-133	\$15,829.64
Highway	51-69	\$43,900.31
	<b>Total</b>	<b>\$59,729.95</b>

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

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

**COMMITTEE REPORTS**

**Building and Grounds**

Mr. Yungfleisch reported:

- Door openers have been installed in the shop out back
- Cameras have been installed at both locations, waiting for Amherst Alarm to return to make internet connections
- Installed shelving at office

**Zoning Board**

Councilman Chamberlain shared that the ZBA approved the Smith/Moreland variance. The ZBA suggested Mrs. Moreland contact CEO/ZEO Morris regarding other changes she would like to make to the property including moving the structure further back. They also passed a resolution overriding the 50% rule for this property.

Discussion ensued regarding the ZBA wanting to change the Zoning Laws. Councilman Augello will reach out to AOT to see if they are aware of grants to help with this process.

**Planning Board**

Councilman Coughlin reported that the Planning Board approved a land separation for Lois Petote. Forefront will start in the spring of 2023. Delayed start due to supply chain issues.

**GAM**

Councilman Augello reported that this committee discussed Phase 3 of the water project and the effects of the rising costs, there is a County RFP to do some more broadband work, and the County has grants for small businesses through the County.

**Cemetery**

Councilman Chamberlain met with Steve Davis. Due to the rise in the cost of fuel he would like an extra \$1,500.00 to cover the extra expenses for the rest of this year. Councilman Chamberlain asked Mr. Davis to give an estimate of the amount of gas he uses each month. This will help in covering gas in maintenance (mowers/weed trimmer), burials and selling cemetery plots.

Councilman Coughlin made a **MOTION**, second by Councilman Chamberlain to pay \$225.00 for the month of April to Mr. Davis and ask him to provide records of his gas usage.

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

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

Discussion ensued about extending the driveway for the new section of the cemetery. Mr. Yungfleisch will further investigate.

## **DEPARTMENT REPORTS**

### **Highway**

Mr. Yungfleisch reported:

- The new price was released for salt. It is up \$7.52 a ton for next year, thankfully the salt shed is full for this year. We will get \$93k back from the County at the beginning of 2023.
- Stone is stock piled as well, it will be mixed up for shoulders. Scheduled to do Arnold and Weatherwax Roads May 26<sup>th</sup>.
- CHIPS – The State has introduced POP, Pave our Potholes. This program has the State paying \$166,064.92 out of the \$300k budget, leaving the Town responsible for \$133,935.00. The invoices need to be turned in by the end of July. Mr. Yungfleisch will bump the roadwork up next year to help take care of our roads.
- Ordered a boom mower out of the grant money through WD2. Delivery will be in approximately 25 weeks. The John Deere tractor is used for several jobs with other attachments. Therefore, Mr. Yungfleisch would like to look at farm auctions for a 100 HP tractor in decent shape to attach the boom mower.
- Mr. Yungfleisch would like to wait a year on ordering a new pick up.

### **Assessor**

Mr. Flansburg report was emailed and is also available in the Town Clerk's office. Supervisor Hynes stated she took the Town Board's questions back to Mr. Flansburg and he answered them all in his report. She stated Mr. Flansburg continues to come in the office and talks with the residents often to answer any questions they have. Councilwoman Marshall found it interesting that the Towns of Carlton and Kendall put a freeze on assessments this year. Also, she has seen a trend where rural towns are between 80-100%.

### **ZEO/CEO**

Mr. Morris monthly report was emailed and is also available in the Town Clerk's office. Town Clerk Werth will contact Mr. Morris regarding missing pages.

### **Town Clerk**

Town Clerk Werth reported that she took in \$826.89 and remitted \$785.39 to the Supervisor for local share, \$22.50 to NYSDOH for a marriage license and \$19.00 to NYS Ag. & Markets for spay/neuter program.

Town Clerk Werth will work with Mr. Yungfleisch to add some landscaping touches to the new office building. Mr. Yungfleisch also shared they will add tile to the front of the parking lot and take it around the back. This will help with keeping the basement dry. He also recommended saving money to black top the

office parking lot.

### Supervisor

Supervisor Hynes reported:

- May 18<sup>th</sup> – Retirement luncheon for Mark Mikolajczyk, let Supervisor Hynes know if you would like to us.
- The agreement was signed between NY Green, the Village and Town to move forward with the application for the comprehensive plan. Meeting next week to do the application. It needs to be handed in by July 1<sup>st</sup>.
- Met with Steve Hyde, Matt Lander, Shelly Stein, and a couple of the Councilmen from Oakfield last week regarding solar with Hecate. Still discussing numbers.
- Met with Dwight Kanyuck and his associate along with a few members of the LaBella team to review additional landscaping for the Hecate project. They brought pictures and provided super imposed views of a few properties with the solar panels placed. They did send in the Statement of Compliance to the State which is part of the process.
- Working with NY Class to move money from regular accounts to interest bearing accounts.
- Cameras are up and the screen is above the window in the Town Clerk's office.
- Fuel Pumps – Councilman Augello shared the pumps are aidable up to 91%, leaving approximately \$2,500.00 to be split evenly between the four entities. The school will need to pay this ahead of time and will be reimbursed by the State next year. Councilwoman Marshall would have liked this to have been voted on. She also stated that others are moving away from fuel farms because of DEC regulations, maintenance, etc. and using gas stations. Supervisor Hynes and Councilman Augello will look for original contracts to review.

### COUNCILPERSONS

Councilwoman Marshall shared that the maps at Hecate hearing had the wrong set backs. She was happy that the Town's solar attorney and engineers caught this.

Councilwoman Marshall is working on getting the voucher in for youth basketball.

### ADJOURNMENT

**MOTION** was offered from Councilman Chamberlain second by Councilman Coughlin to adjourn the meeting at 8:05 p.m.

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

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

Respectfully Submitted,

Trisha Werth  
Town Clerk