

**Town of Elba  
Regular Meeting  
December 8, 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 Coughlin  
Councilwoman Marshall

**Others Present:**

Deputy Town Clerk Dart  
Superintendent of Highways Yungfleisch

**Absent:**

Councilman Augello  
Councilman Chamberlain

**Minutes of November 10, 2022 Public Hearing**

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

**Ayes:** Coughlin, Hynes, Marshall

**MOTION CARRIED by unanimous vote (3-0)**

**Minutes of November 10, 2022 Town Board Meeting**

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

**Ayes:** Coughlin, Hynes, Marshall

**MOTION CARRIED by unanimous vote (3-0)**

**RESOLUTION NO. 32-2022:**

Councilman Coughlin offered the following:

**AUTHORIZATION FOR TOWN SUPERVISOR TO  
EXECUTE CIDER SOLAR PILOT AND HOST AGREEMENTS**

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

**WHEREAS**, Section 94-c and the Permit require that Hecate provide host community benefits for the Cider Solar Project, such as payment in lieu of tax (“PILOT”) payments pursuant to a PILOT agreement, other payments pursuant to host community agreements (“Host Agreements”), and utility bill reductions; and

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

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

**WHEREAS**, at its November 10, 2022 meeting, the Board introduced the Term Sheet for review to consider granting the Town Supervisor the authority to execute the PILOT Agreement and Elba Host Agreement on behalf of the Town of Elba so long as the PILOT Agreement and Elba Host Agreement are substantially consistent with the terms of the Term Sheet; and

**WHEREAS**, the Board has had an opportunity to review the terms of the Term Sheet and understands its contents; and

**WHEREAS**, a public hearing on the financial terms proposed in the Term Sheet was held by the GCEDC on November 28 at 5:00 PM at the Elba Firemen's Recreation Hall.

**NOW THEREFORE BE IT RESOLVED**, that the Board approves the terms of the Term Sheet affecting, relating to or benefiting the Town; and

**IT IS FURTHER RESOLVED**, that Board finds that entry into the PILOT Agreement by the GCEDC and the Elba Host Agreement by the Town, in terms substantially consistent with those presented in the Term Sheet, are in the best interests of the Town of Elba; and

**IT IS FURTHER RESOLVED**, that the Board authorizes the Town Supervisor to enter into the PILOT Agreement and Elba Host Agreement on behalf of the Town of Elba, so long as the PILOT Agreement and Elba Host Agreement are substantially consistent with the terms of the Term Sheet, and execute those documents necessary to memorialize such agreements, the execution thereof by the Town Supervisor to constitute conclusive evidence of such consistency and approval.

**Second by:** Supervisor Hynes

**Ayes:** Coughlin, Hynes, Marshall

**APPROVED by unanimous vote (3-0)**

**RESOLUTION NO. 33-2022:**

Councilwoman Marshall offered the following:

**JANITORIAL CONTRACT WITH ARC GLOW**

**RESOLVED**, that the Town of Elba enter into a month to month Janitorial Contract with Arc GLOW, 18 Main Street, Mt. Morris, NY for the provision of custodial services at the Town Hall at a rate of \$150.64 per month effective January 1, 2023.

**Second by:** Councilman Coughlin

**Ayes:** Coughlin, Hynes, Marshall

**APPROVED by unanimous vote (3-0)**

**RESOLUTION NO. 34-2022:**

Councilwoman Marshall offered the following:

**RESOLUTION ESTABLISHING HOURLY  
RATE FOR TOWN ATTORNEY OF THE TOWN OF ELBA**

**WHEREAS**, the town Board, has the responsibility of establishing compensation for the Town Attorney, Mr. John Whiting;

**WHEREAS**, the Town Attorney assumed the duties of this position on April 8, 2021;

**WHEREAS**, Mr. Whiting has requested an increase in his hourly rate to \$180.00 per hour effective January 1, 2023.

**Second by:** Councilman Coughlin  
**Ayes:** Coughlin, Hynes, Marshall  
**APPROVED by unanimous vote (3-0)**

**RESOLUTION NO. 35-2022:**

Councilman Coughlin offered the following:

**APPOINT ZONING BOARD OF APPEALS MEMBER**

**RESOLVED**, that Maxwell Torrey be appointed to the Elba Joint Village/Town Zoning Board of Appeals effective January 1, 2023 through December 31, 2027.

**Second by:** Councilwoman Marshall  
**Ayes:** Coughlin, Hynes, Marshall  
**APPROVED by unanimous vote (3-0)**

**ABSTRACT 12-2022**

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

|                 |              |                    |
|-----------------|--------------|--------------------|
| General Fund    | 299-325      | \$40,729.83        |
| Highway         | 127-140      | \$18,468.75        |
| BW Solar        | 1            | \$280.00           |
| ForeFront Solar | 1            | \$210.00           |
|                 | <b>Total</b> | <b>\$59,688.58</b> |

**Ayes:** Coughlin, Hynes, Marshall  
**MOTION CARRIED by unanimous vote (3-0)**

**COMMITTEE REPORTS**

**Building and Grounds**

Mr. Yungfleisch reported that insurance took care of the damaged overhead door.

**Zoning Board**

No report.

**Planning Board**

Councilman Coughlin reported they had a quick meeting and training classes are getting done. There is more information coming regarding the Henry Pflaumer land separation.

**GAM**

No report.

**Cemetery**

Mr. Yungfleisch stated it is getting busy. A lot of people have been through the cemetery lately. There is a little more than two acres in the new section and the County will be coming with dozer to do driveway for new part. Someone from out of state came to find relatives on Lockport Road cemetery. Need to speak with land owner around the cemetery about a right of way.

**DEPARTMENT REPORTS**

**Highway**

Mr. Yungfleisch shared:

- A lot of ARPA money came in
- Arnold Tree Service to cut trees on Graham Road next week
- Setting aside \$20k for fuel
- Highway set up an Amazon tax exempt account

- Use DB2 money for trees – Councilwoman Marshall suggested contacting insurance company to see if we get a credit for being proactive. Supervisor Hynes to call.

### Assessor

Mr. Flansburg's monthly report was emailed and is also available in the Town Clerk's office.

### ZEO/CEO

Mr. Morris' monthly report was emailed and is also available in the Town Clerk's office.

### Town Clerk

Deputy Town Clerk Dart reported that we took in \$436.73 and remitted \$415.73 to the Town Supervisor and \$21.00 to NYS Ag. & Markets for spay/neuter program.

Town and County tax bills will be sent out by ABS at the end of December.

### Supervisor

Supervisor Hynes reported:

- Year end meeting needs to be scheduled. Supervisor Hynes will check with Baldwin regarding a 12/27/22 or 12/28/22 meeting date.
- The Organizational meeting should be held as close to January 1<sup>st</sup> as possible. This will take place on January 5, 2023 at 6:15 p.m. The regular monthly meeting will follow that evening as well. A reminder email will be sent next week to all Board Members with dates and times of all meetings.
- The Richter Family Foundation sent a thank you for the donation received for RED Express and Dolly Parton's Imagination library.

### COUNCILPERSONS

Councilwoman Marshall shared a Local Law that the Town of Shelby recently published for an exemption for senior citizens and disabled citizens for new income levels.

Councilwoman Marshall started a discussion regarding a Town tax credit for people with in 1000 feet of solar panels not getting a financial gain from them. Only current owners are receiving the credits. She will send Supervisor Hynes an email with her suggestions.

### ADJOURNMENT

**MOTION** was offered from Councilman Coughlin second by Supervisor Hynes to adjourn the meeting at 7:37 p.m.

**Ayes:** Coughlin, Hynes, Marshall

**MOTION CARRIED by unanimous vote (3-0)**

Respectfully Submitted,

Sue Dart  
Deputy Town Clerk