

DRAFT
Board Meeting
Town of Shelby
4062 Salt Works Rd. Medina, NY

July 9, 2024 7:00 pm

Please note: We are live streaming our meetings through YouTube. See www.townofshelbyny.org and click on the link.

Present:

Scott Wengewicz, Supervisor
Linda Limina, Councilwoman
Jeff Schiffer, Councilman
Steve Seitz, Councilman
Eddie Zelazny, Councilman
Kathleen Bennett, Attorney
Darlene Rich, Town Clerk
Dan Wolfe, Code Enforcement Officer
Kirk Myhill, Planning Board Chair
Julie Cecchini, Assessor
Claude Grimes, Constable
Jim Conway, Constable

Excused: Dale Root, Highway Supt.

Others:

Alan Bushover	Jim Zelazny	Brian Murray Sr.
Julie Wolter	Bill Maryjanowski	Leona Weese
Lorraine Limina	Mike Rich	Anne Misiti
Yonic Parada	Les Quackenbush	Joy Waters
George Phillips	Larry Waters	John Pratt
Sharlene Pratt	Gabrielle Barone	Scott Carlton
Bill Eick	Bonnie Riley	Eric Riley
Carol Callina	Christine Mason	Alana Koneski
Jim Heminway	Barb Dalusio	Jason Michalski
Jasmine Michalski	Phil Rudnick	Jess Marciano

Called to order at 7:03 PM

Pledge to the flag

Public forum regarding agenda items only-none

Highway Report: Dan Wolfe read the report in Dale's absence. Many graves dug. A military grave plaque has been found in the parts room from 2009. The grave was found and plaque was placed. Last month an anonymous complaint was lodged against the Shelby Highway Department Right of Way spraying. DEC investigated and we were exonerated of any wrong doing. MEO Rusty Hofmeister has successfully completed his class A schooling and received his license. NYS Rural water has completed the town wide leak detection. It has been determined that our system is now tight. Through shared services we were able to assist the county, Kendall, Ridgeway, Barre and Clarendon. They will be here next week to assist us in paving Bigford Road. Many concerns regarding the Route 63 road closure. Orleans County Sheriff and New York State Police placed a speed indicator and law enforcement said they would make their presence known on Salt Works Road and East Shelby Road. A big thank you to Mrs. Jones and her class as they have finished section 1A in Mt. Pleasant Cemetery for their impact day. They are mapping current graves in conjunction with plots and markers, great community service! Road side mowing parks and fire halls. Water meter repairs and water reads. New bills will be mailed out soon. Please send in picture of the inbound water pipe to assist in the survey if you haven't already done so. Stacking of E-waste continues.

Assessor's Report: (Julie Cecchini) Supervisor read her report. She said the final tax roll was issued on July 1 and is on the website and its available on line.

Planning Board (Kirk Myhill) Five of his members attended the state training in Albion in June. He asked if the proposed local law number 2 has to go to the county for their recommendations first. Attorney Bennett said the board won't be able to vote on it until after we get the recommendation. It needs to go to planning board and county planning board. July meeting was cancelled.

Code Enforcement (Dan Wolfe) Report for the first six months of the year. Issued 24 building permits. Only 3 have been closed out. It has been a little slow. He has been having good success on the property maintenance violation corrections, many people have responded to him. He sent out three violation letters for high grass, he was concerned about one of them on Shelby Basin Rd., so he sent Councilwoman Limina to the residence and the violation has been corrected. Hoping we can put together a high grass and weeds law maybe this fall.

RESOLUTION NO. 70-24

RESOLUTION TO APPROVE TOWN CLERK REPORT (June)

Motion by Seitz and seconded by Zelazny

Ayes-5

Opposed-0

Motion carried

RESOLUTION NO. 71-24

RESOLUTION TO APPROVE MINUTES OF THE JUNE TOWN BOARD MEETING

Motion by Schiffer and second by Seitz

Ayes- 5

Opposed- 0

Motion carried

RESOLUTION NO. 72-24

RESOLUTION TO PAY CLAIMS AGAINST THE TOWN

Motion by Seitz and seconded by Schiffer

General	\$ 42,969.11	Water 6	\$ 9,570.58
Highway	\$ 15,147.62	Water 7	\$ 1,402.70
Water 1	\$ 13,470.47	Water 8	\$ 3,946.49
Water 2	\$ 2,106.49	Water 9	\$ 3,366.68
Water 3	\$ 5,310.73	Water 10	\$ 1,688.14
Water 4	\$ 10,061.75	Water 11	\$ 2,249.25
Water 4B	\$ 7,836.45	Water 12	\$ 22,029.19
Water 5	\$ 1,068.31		

Ayes- 4

Abstained- Limina

Opposed- 0

Motion carried

RESOLUTION 73-24

PROPOSED LOCAL LAW # 2 OF 2024

A RESOLUTION FOR INTRODUCTION FOR LOCAL LAW NUMBER 2 OF 2024,
MORATORIUM AND WIND ENERGY SYSTEMS AS REQUESTED BY THE
PLANNING BOARD

A Local Law Imposing a Temporary Moratorium on the Consideration and/or Approval
of Applications for Wind Energy Conversion Systems Special Use Permits

Motion by Schiffer; second by Limina

Introduced by: Supervisor Wengewicz

WHEREAS, the Town Board of the Town of Shelby recognizes that the amended and restated Town of Shelby Zoning Ordinance, adopted in 2003, would allow for the creation of Wind Energy Overlay Districts (**WEOD**) within the Agricultural/Residential (**AR**) and Industrial

(I) Districts upon review and approval of an application for Wind Energy Conservation Systems (**WECS**) Special Use Permit, and

WHEREAS, the Town Board has come to understand that creation of Wind Energy Facilities ("**Facilities**") which would result from application review and approval may negatively impact the health, safety, and welfare of neighboring property owners and the general public, and

WHEREAS, the Facilities present potentially significant effects on the aesthetic and visual experience of the Town, such as the noise, lighting, and shadow flicker effects incidental to its operation. Additionally, the large structures necessary to operating the Facilities would be visible from all parts of the Town, thereby diminishing the visual appeal of the Town as a whole, and

WHEREAS, the vast, elevated nature of the Facilities may present a risk to bird and bat populations if not properly sited and regulated, and

WHEREAS, construction and installation of such a large structure presents possible traffic problems and damage to local roads, and

WHEREAS, The Town Board of the Town of Shelby deems it to be in the public interest to cease acceptance and temporarily suspend the processing of applications for WECS Special Use Permits and WEODs. This temporary suspension shall be in effect until such time as Article

V, Section 597 (Wind Energy Overlay Zone) and Article VI, Section 660 (Alternative Energy Systems) of the Town Zoning Law can be reviewed and amended as the Town Board sees fit. Accordingly, this moratorium shall be established for a period of six (6) months from the effective date of this Local Law to provide adequate time for the Town Board to analyze the aforementioned Town Zoning Law sections and determine the appropriate revisions and amendments. A provision is made in this Local Law to allow for a six-month extension of the six

(6) month moratorium if necessary, and

WHEREAS, the Town Board of the Town of Shelby hereby finds that, without a temporary halt on the processing of any applications for WECS Special Use Permits and WEODs, there is potential that such uses could be located in areas which could cause disruptions to neighborhoods and other nearby residents, create travel and safety issues in connection with the construction and operation of the Facilities, and materially affect the visual appeal of the Town, and

WHEREAS, the Town Board also finds that it is in need of time to perform the necessary analysis of the potential uses which should be allowed under the WECS Special Use Permits and to provide a plan conducive to planned, orderly growth and development of the Town, and

WHEREAS, a public hearing will be conducted in connection with this Local Law on Wednesday the 17th day of July, York that for a period of six (6) months following the effective date of the adoption of this Local

Law, the Town of Shelby's Town Board, the Town Planning Board, the Town Zoning Board of Appeals, and the Town Zoning Officers shall not permit, accept, process, interpret, deliberate upon, decide, deny, nor make any determination upon any

applications for approval of WECS Special Use Permits and WEODs governed by Article V, Section 597 and Article VI, Section 660 of the Town's Zoning Law, and

BE IT FURTHER ENACTED that this moratorium shall apply to all such applications submitted after the introduction of this Local Law, and

BE IT FURTHER ENACTED that this Local Law shall be binding on the Town Board, Planning Board, Zoning Board of Appeals, Zoning Officers, Codes Enforcement Officers, and all Town officials and employees, and any applicant or real property owner in the Town desiring to apply for or receive a WECS Special Use Permit, and

BE IT FURTHER ENACTED that during the period of the moratorium, the Town Board shall endeavor to complete all reasonable and necessary review, study, analysis and, if warranted, revisions of the Town of Shelby Zoning Law concerning the regulations currently authorized under Sections 597 and 660 of the Regulations,

BE IT FURTHER ENACTED that this moratorium shall be in effect for a period of six (6) months from its effective date. This Local Law shall be subject to renewal for a cumulative period of up to an additional six (6) months, if necessary, by resolution(s) of the Town Board, and

BE IT FURTHER ENACTED that, to the extent that any law, ordinance, rule, or regulation, or parts of any laws, ordinances, rules or regulations of the Town of Shelby are in conflict with any provision of this Local Law, concerning special uses, site plans, building permits and procedural requirements, this Local Law shall control and supersede such laws, ordinances, rules or regulations, and

BE IT FURTHER ENACTED that, should any owner of any property affected by this Local Law suffer any extraordinary hardship in carrying out the strict letter of this Local Law, then the owner of the property can apply to the Town Board of the Town of Shelby, in writing, for a variance from the strict compliance with this Local Law, upon submission of evidence of such extraordinary hardship. For the purposes of this Local Law, extraordinary hardship should not be the mere delay in being permitted to make an application or waiting for a decision on the application for site plan review, or of a permitting process, during the period imposed by the moratorium and this Local Law.

BE IT FURTHER ENACTED, if any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

BE IT FURTHER ENACTED, that the Town Board will forward this resolution to the Orleans County Planning Board for any further recommendations.

BE IT FURTHER ENACTED, this Local Law shall take effect immediately upon its filing with the Secretary of State in accordance with New York Municipal Home Rule Law.

Discussion: Supervisor said this is a standard moratorium. Limina asked about the part where it says owner of the property affected by the local law suffer any extraordinary hardship. Bennett said generally it's similar in the variance process that land owners can go through under the zoning code. If they find they have experienced some sort of hardship because of the zoning code they are permitted to come in and apply for a variance and essentially that's what allows them to do; so, to seek a variance for a hardship because the town doesn't want to be in a position of facing a lawsuit for taking someone's property without compensation. Limina asked about the loss of somebody's income from not being able to go through with the project, would that be considered a hardship. Bennett said they have to show that they cannot make any reasonable return on their property in order to obtain a variance. It's a very high standard. Someone would have to come in with significant financial proof that basically this moratorium has destroyed all economic value of their property in essence. Zelazny asked how long the moratorium was in effect. Bennett said it's for six months and it's renewable for an additional six months and that will give the planning board time to review the provisions in the zoning code as they currently exist with respect to wind energy systems and decide what changes would need to be made to the zoning code. Limina-This just said wind energy so do we have something in place for solar or should this be amended to say alternative energy in whole? Myhill said it's totally separate. Limina said so it's just the wind? Zelazny said anything below 25 megawatt? Myhill said they are going to cover the whole thing big and small. Zelazny asked if the state controlled anything over 24 megawatt? Bennett said they would make an application to the state and then state could make a ruling to supersede the local zoning code, but she said she would say go ahead and adopt provisions and make them go through that process. Bennett said this is the introduction of the law and it allows the next steps to be taken which is scheduling a public hearing and any referral that need to be made to the County planning board and to your town planning board and then depending on what comments come back from the county the town planning board, the public maybe make changes, maybe you don't but then at that point you adopt the local law so this is just a resolution to introduce the local law.

Ayes-5

Opposed-0

Motion carried.

RESOLUTION NO.74-24

RESOLUTION TO SET PUBLIC HEARING DATE FOR NEXT WEDNESDAY JULY 17, 2024 AT 7:00 PM FOR PROPOSED LOCAL LAW NUMBER TWO OF 2024, MORATORIUM ON WIND ENERGY SYSTEMS.

Motion-Seitz, second-Limina

Ayes-5

Opposed-0

Motion carried

Board Comment-Zelazny- said they were promised last meeting the Allied would be here for presentation and they are not. Supervisor said he thought they were coming. Limina asked if they could be scheduled after the public hearing next week. Zelazny also asked for the procurement policy. Clerk will email all policies to the board. Zelazny also said there was supposed to be discussion regarding sending out the audits to 7 or 8 firms. He said he received an email from the Supervisor this morning, he already sent it out and nothing was never discussed. Supervisor said he emailed everyone to see if they were good with it. Limina said she said she wasn't good with it as things she had put in it were taken out. Supervisor said Seitz and Schiffer and he were good with it. Zelazny said he did not respond to it because they were supposed to be discussing it tonight. Supervisor said a vote was done. Zelazny said per NY State Public Officers Law Section 103a a town board cannot vote privately via unless they are in executive session which they were not. The open meetings law requests public bodies conduct their business in the public allowing the public to listen, observe their elected officials. He said the law was broken. You are not supposed to be voting via emails. Supervisor said the email said does anyone have a problem with this. The wording Limina submitted had changes made by Kathy, supervisor made changes and resubmitted to the board. Limina wanted to wait. Schiffer and Seitz wanted to move forward. Zelazny said the public wants to know what's going on and feels Supervisor is not being transparent regarding the audit. Supervisor said he is trying to get it done. Bennett said it is not an audit, it is a review. Bennett said the board could review the letter, redo the letter and re-submit it. You can vote to do that. Zelazny said a year ago he thinks we need a forensic audit. Supervisor said there is no money missing, there is no fraud, the books are just messed up and need to be straightened out. Bennett said with speaking with the comptroller's audit that they also told her a forensic audit wasn't necessary, there was no money missing, that there have been a number of bookkeeping errors dating back to 2010 and 2011. She also stated it was not necessary to correct the books back to that times and suggested that the town not go through the effort and spend the money that is would take to go back and correct the books all the way back to 2010. She suggested going back to 2022 which is what I believe the board discussed and how the proposal that was sent out was worded. Your certainly free as a board to decide to do otherwise. Zelazny said going back to 2010, 2012, state found in 2013 bank balances were approximately \$997,000 less than the cash balances shown in towns computer. Believes something has to be done to see

where all of the mistakes came from. Zelazny said he did not say there was money missing but you're never going to correct anything if you don't go back and find out what happened. He said we need to go back that far. Bennett said it's just a matter of how much the town wants to spend. Zelazny said as far as he was concerned, they had no problem spending \$30,000-\$35,000 on witch hunts investigations that nothing came of it. Limina- would like to put a date on the books for the week after these new RFP's are going to be returned assuming we will be getting at least 1 or 2 from the second round so that we already have a meeting scheduled and we are not doing a last-minute meeting again so can we pick something the week after they are due back. Thinks it's only fair to put on the calendar so that the public and we have time to plan for it. Limina was hoping if we came to that conclusion, we could send out the request and, in that request, tell them we already had a date set up for interviews should they decide to respond. I guess we can follow up with that now and let firms know if they respond we are going to do interviews on July 29 at 6pm. If we get 2 or 3 we could give them 40 minutes or so. Zelazny-wants to be copied on each firm that was sent out. He wants a copy on his email of the scope of work. He said the whole board should be getting that. Supervisor said he will forward what went out. He said he sent out 7 or 8. Limina said in the written one she had asked for any issues that arose from the original work to be documented back to the board for review for an additional engagement if need be and that was changed to be just the attorney and supervisor. Is the board going to be updated as they find things. Bennett said the board will be updated. Limina said will it be then or will the board be updated within a week of finding it out. Just wants to clarify it won't be months later. It would be within a week and it would be sent to the board.

Limina -said a letter was received from the village but has a question from last meeting Dale had mentioned that the water was on from Royalton for I think he said 4-6 weeks for pressure testing. Based on the letter from the village it looks like it was on a little more than that. Two of the areas had 80% drop in usage, one area had 90% in usage so clearly, they got a little more water than a few weeks so her question is – Is there some kind of testing that has to happen since we switched their water supply for almost a quarter and just wants to make sure that whatever Health Department regulations or whatever had to be done was done. She just got a quality report from the village and were they told that they had different water. Seitz-will submit questions to Dale. He said it's not his department and is not sure when it was done. Limina asked if we know if Shelby is getting water from Shelby again or are there still sections opened to Royalton. Supervisor said no that it was a limited test and they haven't opened up anything yet. Its all 100% Medina water. Zelazny-what date? Supervisor said Dale would know. Supervisor said part of the issue was our water hydrant. Dale received a letter that said NY Rural Water Association did a leak survey from the Town of Shelby located in Orleans County on June 20 and 27th detection was used by LD12 device. Entire public water system was surveyed using this device and there are no apparent leaks at this timer so, us repairing all those leaks last year and this spring has taken care of all our major leaks we had. Limina- in last meeting she had asked to get some water information for the 12 districts going back 4 quarters. Supervisor said he had that and could give it to her.

Seitz- after listening to our attorney and Mr. Zelazny he doesn't feel we should have to go back to 2010. If the comp roller said it would be good to go back to 2022 and start all over on the books, he agrees with that. He feels we don't need to go back any further. Limina wanted to clarify what she understood here to say is we should start with 2022 and based on the findings of those reconciliations it may determine we need to go back farther but you're not going to know until you start with 2022 and come forward. Bennett-Actually until we get the report from the comptroller's office and yes what she recommended was to go back to 2022. She did say she did not know if we needed to go that far back but thinks we need to wait until we get a written report from the State Comptroller.

Limina-at last meeting it was discussed she be able to reach out to Williamson Law. She asked Supervisor if he made the call and he said he did not. She asked if he was going to. He said he would decide this week. Limina said that Seitz and Schiffer agreed that she should make the call to find out what was going on. Supervisor said he would do the call with her in his office. Each board member can do it with him in his office. Supervisor said he has nothing to hide. Zelazny said they need permission to call. Limina said she is probably the one on the board that is most suited to have a conversation with an accounting software company and has no problem calling with Supervisor but if Steve or Ed wanted to hear it, calling with you isn't going to help them because you're not going to ask the questions that she would ask so it makes sense that she would be the one to call if multiple board members want to hear. She said they have been beating this around for a year and we still don't have a clear understanding what's wrong with Williamson Law software. I can explain things. She said Supervisor is not able to explain the issue. If we call from his office, we can't have a quorum but if we called from here, it would be a quorum and then the public would be able to hear it. Limina said Williamson Law won't talk to us because you have to give permission. Limina asked Bennett if legally the supervisor deny access to the board members for information they may need to make educated decisions on issues against the board. We have to interview accounting firms and its hard to understand if you don't understand the scope of the problem. Limina said she doesn't want to have Williamson worried about what to say to her if he is in the room. Zelazny said they agreed at the work session to call Williamson as a group. Seitz said you're giving her access; you're just doing it with her. Limina said because they are the Supervisor books it is somewhat of a conflict of interest. Supervisor said it is not a conflict of interest as he is responsible for them. Limina said she would like to have the conversation with the attorney. Bennett and she will call. Supervisor said he was good with that. Zelazny said he would like to join in on the call. Limina said Supervisor will call Williamson Law in the morning and tell them Kathy and her and Ed have access to them. Supervisor agreed. Just for the record all of these extra things- the towns getting billed extra for this correct. Bennett answered correct. Bennett said some of the work is outside of the retainer. So, in including an attorney in things are really not necessary is costing the town extra money.

Schiffer- update on Furness Parkway-Supervisor said Dale was working with the County Soil and Water. Waiting to hear back.

Public comments:

Darlene Rich- I wasn't here last month as I was attending the NYS Tax Collector Conference. Just wanted to clarify a few things that were said at the meeting. Since April I have been doing the vouchers. A Verizon bill that is one page, goes to Miranda and she sends it to me. It is just one page and not the full Verizon bill. There was also mention of a Toshiba bill from November and December being paid late. That was because they could not get a read on the court copier. An email was sent to an email that no longer exists. When Toshiba called me in April and I was able to get the correct person to get this taken care of. And lastly, the clerk does not open any mail that does not belong to her. I, or my deputy gets the mail however I don't open any mail unless it is my mail. If there is mail that I don't know who gets it I would open it and then if it is not mine it goes to the correct department. Also moving forward, I will be putting a policy in place that if you give the clerk a document you will be signing you are giving it to her and she will sign she received it and it will state what the document is. This will protect both of us and it will help when I have to look for records, I have not received.

Larry Waters-Submitted a FOIL to get his questions answered. It was approximately 80% fulfilled. Was able to see issues with potential leakage. Service charges are \$25-103. He would tell anyone to know when your district bond will be paid off so you're not paying the full-service charge. He did get a copy of the vouchers and the contractual for the district was \$3500 and already we are at \$2400- and we still have half a year to go. With no Supervisor reports for 2024 it befuddles him.

Barb Dalusio-In March when the balloons were sent up (for Borrego) to show how high the windmills would be petitions were circulated. She thanked the board for not approving the wind overlay but there is more work to be done and she thanked the planning board as well for addressing this. The second part was to please look at the zoning laws, do whatever you can to prevent the large wind turbines in our community. She had collected petitions that were signed in good faith and she is submitting them in good faith. It also includes people in the village and they tried to designate separate sheets for Ridgeway residents. But it does affect the people in the village as well.

Motion by Seitz and seconded by Schiffer to adjourn the Town Board Meeting at 7:58 PM.

Respectfully submitted,

Darlene Rich, MMC, RMC
Town Clerk