

A regular meeting of the Elma Town Board was held on Wednesday, February 27, 2013 at 7:00PM, Elma Town Hall, 1600 Bowen Road, Elma, New York, with the following members present:

Supervisor	Dennis Powers
Councilman	Thomas Fallon
Councilman	James Malczewski
Councilman	Michael Nolan-Absent
Councilman	Tracy Petrocy

Also:	Building Inspector	Joseph Colern
	Highway Superintendent	Wayne Clark
	Water Superintendent	Eugene Stevenson
	Town Attorney	Phyllis Todoro
	Town Engineer	James Wyzkiewicz

Approximately 26 people attended the meeting.

The meeting was opened with the reciting of the Pledge of Allegiance.

Making the Legal Notice for the Public Hearing on Drainage District #192 for Fargo on Gaylord Court, part of the minutes Supervisor Powers opened the hearing at 7:02PM. No one spoke for or against forming Drainage District #192. Supervisor Powers closed the hearing at 7:03PM.

Councilman Fallon made the motion and Councilman Petrocy seconded the motion to approve Drainage District #192 for Fargo on Gaylord Court. Ayes-3. Noes-1. (Councilman Malczewski voted no) Carried.

Councilman Malczewski made the motion and Councilman Fallon seconded the motion to approve the minutes from the January 23, 2013 meeting. Ayes-4. Noes-0. Carried.

#### Department Reports:

Water Superintendent Eugene Stevenson attended a GIS meeting and will set up a meeting for department heads on the updates and uses of the GIS software that are available.

Councilman Fallon made the motion and Councilman Petrocy seconded the motion to rescind the Business Use Permit for Online Auto Connections at 2989 Transit Rd. Ayes-4. Noes-0. Carried.

Councilman Malczewski made the motion and Councilman Fallon seconded the motion to rescind the Business Use Permit for Seasonal Nursery at 90 New Bullis Rd. Ayes-4. Noes-0. Carried.

Councilman Fallon made the motion and Councilman Petrocy seconded the motion to approve a Preliminary Business Use Permit for Seasonal Nursery Buffalo RV at 90 New Bullis Rd. Building Inspector notes to refer to Planning Board for site plan review under Town code 144-87. Ayes-3. Noes-1. (Councilman Malczewski voted no) Carried.

Councilman Malczewski made the motion and Councilman Fallon seconded the motion issue a negative declaration on a short form SEQR to Marco Island Restorations at 7120 Seneca Street. Ayes-4. Noes-0. Carried.

Councilman Malczewski made the motion and Councilman Fallon seconded the motion to approve a Business Use Permit for Marco Island Restorations at 7120 Seneca Street. Building Inspector notes 7,000 sq ft building approved at Planning Board on 2/19/2013. Permit required for advertising signs. Ayes-4. Noes-0. Carried.

Councilman Fallon made the motion and no one seconded the motion to approve the 1 Lot 280-A for Fargo on Gaylord Court. Motion tabled no further action taken.

Councilman Petrocy made the motion and Councilman Malczewski seconded the motion to approve the 30 day review for the Fire Service awards points for Blossom, Elma and Jamison Fire Companies. Ayes-4. Noes-0. Carried.

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Councilman Malczewski made the motion and Councilman Petrocy seconded the motion to table the Fill Permit for Todd Huber at 6091 Seneca Street until the next Work Session. Ayes-4. Noes-0. Carried.

Councilman Fallon made the motion and Councilman Malczewski seconded the motion to approve the following resolution in Opposition to GOVERNOR CUOMO'S PROPOSALS TO IMPOSE LIMITATIONS ON THE PLEA BARGAINING PROCESS AS IT PERTAINS TO SPEEDING TICKETS: Whereas, The Governor has proposed, as part of his Executive Budget, a provision that would restrict the ability of local courts to plea bargain traffic tickets, and Whereas, This provision would unduly infringe upon the discretion of local judges to adjudicate matters on a case by case basis, and Whereas, Without the ability to plea bargain traffic tickets there will be an increase in the number of trials held in the local courts which will have the result of significantly increasing the cost to the municipality to run its court system, and Whereas, This provision will take away an important funding source that municipalities rely on to run their court systems, and Whereas, The Governor has also proposed, as part of his Executive Budget, a provision that would add an eighty dollar (\$80.00) surcharge to all stopping/standing/parking violations, regardless of the circumstances behind the violations, and Whereas, This would have the effect of creating a significant hardship on residents of this state who have been cited for relatively minor infractions, and Now Therefore Be It Resolved, that the Town Board of the Town of Elma does hereby oppose these provisions of the Governor's Executive Budget, and Be It Further Resolved, that a certified copy of this resolution be forwarded to: Honorable Governor Andrew M. Cuomo, Honorable Senate Majority Leader Dean Skelos, Majority Leader of Independent Democratic Caucus Jeff Klein, Honorable Senate Minority Leader Andrea Stewart-Cousins, Honorable Speaker of the Assembly Sheldon Silver, Honorable Leader of the Assembly Joseph Morelle, Honorable Minority Leader of the Assembly Brian Kolb, and the Western New York Delegation and Erie County Legislators. Ayes-4. Noes-0. Carried.

Councilman Petrocy made the motion and Councilman Fallon seconded the Motion to approve the following resolution to Support for NYS-Contact Info for Vacant Structures: Resolved to support New York State regarding the proposed laws concerning contact information for vacant structures. WHEREAS, vacant, abandoned and foreclosed homes and structures have proliferated throughout New York State over the last five years; and WHEREAS, vacant structures that are not maintained for months at a time degrade and depreciate the value of the vacant structure as well as the value of surrounding properties; and WHEREAS, lending institutions that hold mortgages on said vacant structures do not always provide the contact information of a responsible party; and WHEREAS, Assembly Bill A.88 and Assembly Bill A.824, currently pending, would make it mandatory for lending institutions to provide contact information of responsible parties regarding vacant structures; and require good faith in obtaining a foreclosure; and WHEREAS, the Town of Elma Town Board supports the passage of said Bills. NOW THEREFORE, BE IT RESOLVED that the Town of Elma hereby supports the passage of said Bills and respectfully requests that the State Representatives who represents constituents in the Town of Elma support the passage of said Bills. Copies of this resolution to be forwarded to Senator Patrick M. Gallivan, Assemblyman Michael P. Kearns and Assemblyman David DiPietro. Ayes-4. Noes-0. Carried.

Councilman Fallon made the motion and Councilman Malczewski seconded the motion to approve the following resolution to Amend the NY Safe Act: WHEREAS, the Town of Elma located in the Center of Erie County in the State of New York objects to the infringement of the 2<sup>nd</sup> Amendment of the Constitution of the United States of America by the New York State governing body, and WHEREAS, the Gun control Bill (S.2230) known as NY SAFE Act was rushed through the Senate & Assembly without a single Public hearing or input from the various Law enforcement agencies located around our State, and

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WHEREAS, the Town of Elma proposes and affirms an ordinance to protect the rights of its citizens to keep and bear arms: an ordinance, which shall be known and may be cited as the "2<sup>nd</sup> amendment preservation ordinance"...which shall stand to prevent federal, state or local infringement on the right to keep and bear firearms, firearm accessories or ammunition; nullifying all federal, state or local acts in violation of the 2nd amendment to the Constitution of the United States, and WHEREAS, the Webster, New York case clearly reflects a greater need for an overhaul of the State's mental health system and parole/judicial system, along with greater "criminal Control" and enforcement of existing policies and laws, and WHEREAS, the residents of the Town of Elma realize that the NY SAFE Act, gun control law, must be repealed and must replace the restrictions of the enacted law, and NOW THEREFORE BE IT RESOLVED, that The Town Board of the Town of Elma urgently asks Governor Andrew M. Cuomo & the Legislative leaders to suspend this law as soon as possible and calls upon our state and federal representatives to take appropriate action to ensure the safety of our citizens from dangerous psychopaths regardless of whether they are using firearms, knives, clubs or hammers as weapons to take innocent lives, and be it further RESOLVED, the Town of Elma vehemently opposes any and all new legislation that further restricts the rights of law-abiding gun owners, and be it further RESOLVED, the Town of Elma supports the rights of its citizens to arm themselves, if necessary, to protect themselves, their families and their neighbors when law enforcement or our government fails to do so and also if crimes against the 2nd amendment and the United States Constitution are being committed by whatever group or persons committing such a crime, and be it further RESOLVED, the Town of Elma supports legislation that will ensure dangerous felons are incarcerated and not released only to take additional innocent lives, and be it further RESOLVED, that a certified copy of this resolution be forwarded to: Honorable Governor Andrew M. Cuomo, Honorable Senate Majority Leader Dean Skelos, Honorable Majority Leader of Independent Democratic Caucus Jeff Klein, Honorable Senate Minority Leader John Sampson, Honorable Speaker of the Assembly Sheldon Silver, Honorable Leader of the Assembly Ron Canestrari, Honorable Minority Leader of the Assembly Brian Kolb, and the Western New York Delegation and Erie County Legislators. Ayes-4. Noes-0. Carried.

Councilman Malczewski made the motion and Councilman Fallon seconded the motion to approve the following resolution for the School Resource Officer: WHEREAS, the New York State Police have previously assigned a full time officer to various school districts, including the Iroquois Central School District, said Troopers, but not limited to, being designated School Resource Officers, and WHEREAS, the School Resource Officer provides an increased level of effective interaction between the Police Department, students, school officials, and parents. This partnership between the Police Department and school officials facilitates the rapid resolutions of minor problems before they become major ones, and WHEREAS, we have moral and legal responsibilities as citizens and public officials to protect what we can, and WHEREAS, the presence of said School Resource Officers has resulted in creating a safer environment on and around the school premises, and WHEREAS, the School Resource Officer assigned to the Iroquois Central School District has served as a positive role model to students, bullying issues have virtually diminished and disciplinary referrals have decreased by approximately one half, and WHEREAS, residents, students, teachers, administrators and public officials, led by the efforts of Senator Gallivan desire to retain the presence of the School Resource Officer in our school in an effort to continue to provide the benefits to our children of this program both with respect to their entitlement to learn in a safe environment and benefit from the human services provided by the School Resource Officer, NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Elma does hereby request that Governor Cuomo reinstate the assignment of the School Resource Officers to our schools.

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AND FURTHER, BE IT RESOLVED that a certified copy of this resolution be forwarded to: Honorable Governor Andrew M. Cuomo, Honorable Senator Patrick M. Gallivan, Honorable Assemblyman David DiPietro, Honorable Erie County Executive Mark Poloncarz, Honorable Legislator Joseph Lorigo, all members of the Erie County Legislature and all Towns in Erie County. Ayes-4. Noes-0. Carried.

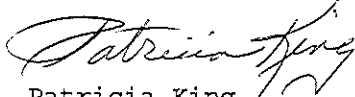
Councilman Malczewski made the motion and Councilman Fallon seconded the motion to approve Warrant #2 Claim #111 thru #209 as follows: General Fund \$42,607.67; Highway Fund \$46,445.93; Water District \$15,234.45; Special District \$1,120,290.75 and Capital Projects \$7,912.50. Ayes-4. Noes-0. Carried.

Supervisor Powers noted the next Town Board meeting March 6, 2013 at 7:00PM and the next Work Session will be March 13, 2013 at 6:00PM.

All have received the Planning, Zoning, Conservation Boards and Work Session agenda and minutes that apply.

Meeting adjourned at 8:25PM. All in favor.

Respectfully submitted,

  
Patricia King,  
Town Clerk

#### LEGAL NOTICE

WHEREAS, a petition dated January 23, 2013 has been duly presented to the Town Board of the Town of Elma, according to the law, requesting that a drainage district, as hereinafter described, be established in the Town of Elma, and

WHEREAS, the boundaries of the proposed drainage district are as follows:

Part A: 2.011 Acre Parcel to be deeded to the Town of Elma off Gaylord Court

All that certain Piece or Parcel of Land situate in the Town of Elma, County of Erie and State of New York, being Part of Lot 64, Township 10, Range 6 of the Buffalo Creek Reservation, bounded and described as follows:

Commencing at a point in the westerly line of Gaylord Court (50' wide) at the northeast corner of Parcel "C" as shown on a map of Gaylord Court filed in the Erie County Clerk's Office under Cover Number 2183, (which Parcel "C" lies immediately to the south of Subdivision Lot No 66 as shown on said map); Thence southerly along the westerly line of said Gaylord Court along a curve to the left with a radius of 270.00 feet, an arc distance of 35.13 feet to a point; Thence westerly along a line bearing N 88° 53' 06" W, 165.13 feet to a point of curvature; Thence westerly along a curve to the right with a radius of 195.00 feet, an arc distance of 93.04 feet to a point of tangency; Thence westerly along a line bearing N 61° 32' 48" W, 186.75 feet to a point; Thence southwesterly along a line bearing S 42° 35' 18" W, 534.99 feet to the principal point of beginning; Thence westerly along a line bearing N 89° 55' 24" W, 255.00 feet to a point; Thence northerly along a line bearing N 00° 22' 39" W, 428.57 feet to a point; Thence northwesterly along a line bearing N 40° 25' 50" W, 593.96 feet to a point; Thence easterly along a line bearing N 89° 26' 02" E, 52.11 feet to a point; Thence southeasterly along a line bearing S 40° 25' 50" E, 560.56 feet to a point; Thence southeasterly along a line bearing S 26° 33' 37" E, 508.51 feet to the point or place of beginning and containing 2.011 acres more or less.

Part B: 20' Wide Town of Elma Access Easement off Gaylord Court

All that certain Piece or Parcel of Land situate in the Town of Elma, County of Erie and State of New York, being Part of Lot 59 and Lot 64, Township 10, Range 6 of the Buffalo Creek Reservation, bounded and described as follows:

Commencing at a point in the westerly line of Gaylord Court (50' wide) at the northeast corner of Parcel "C" as shown on a map of Gaylord Court filed in the Erie County Clerk's Office under Cover Number 2183, (which Parcel "C" lies immediately to the south of Subdivision Lot No 66 as shown on said map); thence southerly along the westerly line of said Gaylord Court along a curve to the left with a radius of 270.00 feet, an arc distance of 35.13 feet to the principal point of beginning; thence westerly along the south line of a 20' wide Town of Elma Access Easement, the following courses and distances; westerly along a line bearing N 88° 53' 06" W, 165.13 feet to a point of curvature; westerly along a curve to the right with a radius of 195.00 feet, an arc distance of 93.04 feet to a point of tangency; westerly along a line bearing N 61° 32' 48" W, 186.75 feet to a point; thence southwesterly along the centerline of said 20' wide Town of Elma Access Easement and bearing S 42° 35' 18" W, 534.99 feet to a point.

Said description being for a 20' wide town of Elma Access Easement.

WHEREAS, the improvements proposed in said district consist of none, it is

ORDERED, that the Town Board of the Town of Elma, shall meet at the Town Hall, 1600 Bowen Road, Elma, New York on the 27th day of February, 2013 at 7:00 o'clock p.m. to consider such petition and hear all persons interested in the subject thereof, and it is further

ORDERED, that the Town Clerk of the Town of Elma is hereby authorized and directed to publish a certified copy of this order in the Elma Review and to post a copy of the same on the signboard of the Town of Elma in the time and manner required by law.