

A regular meeting of the Elma Town Board was held on Wednesday, January 23, 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
Councilman	Tracy Petrocy

Also: Building Inspector	Joseph Colern
Highway Superintendent	Wayne Clark
Water Superintendent	Eugene Stevenson
Town Attorney	Phyllis Todoro
Deputy Town Attorney	Dean Puleo
Town Engineer	James Wyzykiewicz

Approximately 112 people attended the meeting.

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

Councilman Nolan made the motion and Councilman Petrocy seconded the motion to approve the minutes from the January 2, 2013 meeting. Ayes-5. Noes-0. Carried.

Making the Legal Notice for the Public Hearing for Local Law #1-2013 Imposing a Twelve Month Moratorium on construction of two (2) or more unit multifamily dwellings/projects in the Town of Elma part of the minutes Supervisor Powers opened the hearing at 7:01PM. Speaking for the Local Law #1-2013: Marlene Baumgartner, Michael Sobczak, Eric Weaver, Bill Stern, Penny Pennington, Kevin Czuba, Anthony Davoli, Kenny Schaff, Jeffrey Breidenstein Stephanie Nichter and Jim Wagner. Also a letter from Michael Cirocco was noted. No one spoke against. Supervisor Powers closed the hearing at 7:16PM.

Councilman Malczewski made the motion and Councilman Fallon seconded the motion to approve Local Law #1-2013 Imposing a Twelve Month Moratorium on construction of two (2) or more unit multifamily dwellings/projects in the Town of Elma. Ayes-5. Noes-0. Carried.

Department Reports:

Building Inspector Joseph Colern presented the 2012 Building Report with 286 permits issued with an estimated construction value of \$17,033,916.05 with fees collected in the amount of \$117,149.74. Water Superintendent Eugene Stevenson noted that the flushing program and the flow testing is complete. The Water Department has been locating water line due to the cold spell and helping residents with frozen water lines. Highway Superintendent Wayne Clark presented the agreement to spend Highway funds in the sum of \$270,000 for general repairs of 41.13 miles.

Councilman Nolan made the motion and Councilman Fallon seconded the motion to add the item to spend Highway funds to the Agenda. Ayes-5. Noes-0. Carried.

Councilman Nolan made the motion and Councilman Malczewski seconded the motion to approve the spending of Highway funds as requested by Highway Superintendent Wayne Clark. Ayes-5. Noes-0. Carried.

Councilman Nolan made the motion and Councilman Fallon seconded the motion to amend the Organizational agenda to read that officials shall be allowed \$.565 per mile for the use of their cars for official Town business upon presentation of a mileage log to the Town. Mileage rate is according to the IRS guidelines and will be adjusted during the year if warranted and to use First Niagara Bank. Ayes-5. Noes-0. Carried.

Councilman Malczewski made the motion and Councilman Fallon seconded the motion to rescind the Business Use Permit for TVGA at 960 Maple. Ayes-5. Noes-0. Carried.

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Councilman Fallon made the motion and Councilman Nolan seconded the motion to approve the Meter & Regulator Lot Lease agreement with National Fuel. Terms are \$2500.00 annually and shall increase by three (3)% on the fifth (5) anniversary and every five (5) years thereafter. Also to plant a row of trees as a buffer for the adjoining neighbor. Ayes-5. Noes-0. Carried.

Councilman Nolan made the motion and Councilman Malczewski seconded the motion to approve Supervisor Powers signing the agreement with the Boys and Girls Club in the amount of \$55,000 for the 2013 year. Ayes-5. Noes-0. Carried.

Councilman Nolan made the motion and Councilman Fallon seconded the Motion to approve Supervisor Powers signing the agreement with the VFW in the amount of \$2,000 for 2013. Ayes-5. Noes-0. Carried.

Councilman Malczewski made the motion and Councilman Fallon seconded the motion to approve Warrant #13 Claim #1797 thru #1890 as follows: General Fund \$36,609.92; Highway Fund \$10,820.16; Water District \$131,723.70 and Special District \$84,446.00. Ayes-5. Noes-0. Carried.

Councilman Malczewski made the motion and Councilman Fallon seconded the motion to approve Warrant #1 Claim #1 thru #63 as follows: General Fund \$139,068.64; Highway Fund \$56,354.27; Water District \$31,251.23 and Special District \$73,582.36. Ayes-5. Noes-0. Carried.

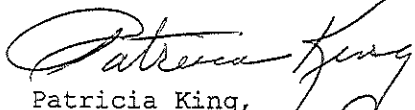
Supervisor Powers set a Public Hearing date of February 27, 2013 for Drainage District #192 Fargo at 7:00PM.

Supervisor Powers noted the next Town Board Meeting on February 6, 2013 at 7:00PM and noted that the next Town Board meeting will be February 27, 2013 at 7:00PM, due to the Association of Towns meeting in NYC. A Work Session may be called and will be announced at the next Town Board meeting of February 6, 2013.

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

Meeting adjourned with a moment of silence for Mae Charlotte Yacobush who was the Town Historian from 1988 thru 2003, at 7:55PM. All in favor.

Respectfully submitted,


Patricia King,
Town Clerk

Title Local Law No. 1-2013

"Imposing a Twelve Month Moratorium on construction of two (2) or more unit multifamily dwellings/projects in the Town of Elma"

Section 1: Title. This Local Law shall be referred to as "Local Law #1-2013 imposing a twelve (12) month moratorium on construction of two (2) or more unit multifamily dwellings/projects in the Town of Elma"

Section 2: Purpose and Intent. A. In order to address present and future development within the Town of Elma and to continue updating of the Town's Comprehensive Plan. B. The zoning, building codes and regulations of the Town of Elma as currently written may be incomplete and inadequate to address certain applications for approval of some land uses. C. The definitions in the Town of Elma code book need to be more clearly defined. D. The moratorium halting the application for and construction of two (2) unit or more multifamily residences enables the assessment of present and future growth and development needs within the Town of Elma and addresses the appropriateness of multifamily residential development with respect to the existing surrounding communities and environmental impacts.

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E. Therefore, the Town Board of the Town of Elma finds it prudent and necessary for a period of twelve (12) months following the enactment of the Local Law #1-2013 a moratorium applicable to all multifamily projects that include, but is not limited to two (2) or more family structures, senior housing, townhouses, condominiums, all apartment complexes, and any type of building that houses two (2) or more family units. This moratorium would also include commercial projects that include, but is not limited to apartment buildings, hotels/motels, and any type of building that houses two (2) or more family units. F. This moratorium is intended to insure that no approvals for such land use applications as aforesaid, including but not limited to said building permits, subdivision maps, land divisions, variances, special permits and change of zoning petitions, be granted until this Board may complete its planning studies in respect to said multifamily dwellings/projects and have the opportunity to consider and enact comprehensive code and zoning changes as appropriate.

Section 3: Statutory Authority: Suppression. A. This moratorium is enacted by the Town Board of the Town of Elma pursuant to its authority to adopt local laws under the New York State Constitution Article IX and Municipal Home Rule Law 10,20,27 and in compliance with section 239-m of the General Municipal Law. B. This Local Law #1-2013 supersedes # 144-140, #144-141 and #144-142 of the Code of the Town of Elma, New York.

Section 4: Term. This Local Law #1-2013 shall be in effect for a period of twelve (12) months. There shall be the possibility of two (2) separate six (6) month periods of extension imposed, after proper notice and a public hearing to be held within forty-five (45) days prior to the expiration of said moratorium period. In the event that any new Local Law which addresses the substantive issues set forth herein, should be enacted and adopted by the Elma Town Board prior to the date that the moratorium imposed by this Local Law #1-2013 expires; the moratorium imposed by this Local Law #1-2013 shall expire on the date such new Local Law takes effect.

Section 5: Scope of Controls. During the effective period of this Local Law #1-2013: A. The Code Enforcement Officer of the Town of Elma is prohibited from accepting any application for, or issuing any permit for any project which includes two (2) or more family units/dwellings residential or commercial. B. The Town Board of the Town of Elma shall not refer to the Planning Board any new request for site plans for any project which includes two (2) or more family units/dwellings residential or commercial. C. The Town of Elma Planning Board shall not make any recommendations or referrals to the Elma Town Board or any other applicable Board of the Town for any approval, any site plan, or other permit that would result in the development of a multifamily dwelling/project of two (2) or more family units. D. The Town Board shall impanel a committee that will convene within forty-five (45) days of passage of this local law to investigate, develop and report its recommendations within the specified time frame. The Town Board may, at its discretion, employ professional services to assist this committee as it deems appropriate.

Section 6: Exceptions. A. This Local Law #1-2013 will not include or prohibit the consideration of any one (1) family residential home. B. This Local Law #1-2013 will not include any single two (2) family dwelling on a conforming building lot. C. This Local Law shall not include any project which has received final approval, however has not yet started construction.

Section 7: Definitions. Multifamily. Any building with two (2) or more dwelling units. Multifamily dwelling units can be rental, leased or owned. They can be in a freestanding residential building or part of a mixed-use building, new construction or conversion of a pre-existing building. Terms to include but not be limited to are: apartments, apartment complexes, senior housing, townhouses, condominiums, and hotels/motels.

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Section 8: Severability. If any part or provision of this Local Law #1-2013 or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be limited in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law #1-2013 or the application thereof to other persons or circumstances, and the Town Board of the Town of Elma hereby declares that it would have passed this chapter or the remainder thereof had such invalid application or invalid provision been apparent.

Section 9: Effective Date. This Local Law #1-2013 shall take effect immediately upon filing in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN that the Town Board of the Town of Elma, County of Erie, will meet at the Elma Town Hall, 1600 Bowen Road, Elma, New York on the 23rd day of January, 2013, at 7:00 p.m. for the purpose of conducting a public hearing to consider and discuss and, if needed, act upon the proposed local law entitled "Local Law #1-2013 Moratorium for 1 Year on Multi-Family Dwellings/projects in the Town of Elma."
The moratorium should include 3 or more family structures, senior housing, townhouses, condos and all apartment complexes. This moratorium would not include two (2) family residences.
BY ORDER OF THE TOWN BOARD OF THE TOWN OF ELMA, ERIE COUNTY, NEW YORK