

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

Nov 14, 2023 7:00pm

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

Present: Scott Wengewicz, Supervisor
 Steve Seitz, Councilman
 John Pratt, Councilman
 Jeff Schiffer, Councilman
 Darlene Rich, Town Clerk
 Pam Henry, Deputy Clerk
 Kathleen Bennett, Attorney
 Claude Grimes, Constable
 Dale Root- Highway Supt.
 Miranda Bennett, Bookkeeper

Excused: Ed Zelazny, Councilman

Others	Michael Rich	Sharlene Pratt
	Leona Weese	Jada Burgess
	Halli Gray	Paul Henry
	Linda Limina	Alana Koneski
	Jim Heminway	Pat Eick
	James Zelazny	Jess Marciano
	Joy Waters	Lawrence Waters
	Bill Eick-Co. Leg	Kirk Myhill
	Julie Wolters	Andrea Walton
	Karen Jones	Robert Bracey
	Joanne Bracey	Alan Bushover
	Katy Owczarczak	Marguerite Sherman
	Brian Murray	John Parada

Called to order at 7:00 PM
Pledge to the flag

Public forum regarding agenda items only- nothing added on tonight.

Old business- Supervisor told Lawrence Waters – For the county shared sales tax- the county will not be increasing the sales tax due to budget constraints. Whatever the share was set at years ago will be the same amount.

Highway Report: (Dale Root)-getting trucks ready for the winter. Town of Barre helped with exercising more hydrants and valves. Foundations for headstones in the cemetery being prepared by C J and Jeremy. Rusty and Bill spent time trimming trees on Smith and Town line Rd. Tree trimming done by all in the cemeteries by all using the Village of Medina bucket truck. He has submitted all of the necessary paperwork for CHIPS reimbursements to be deposited mid-December. It will be a few dollars short of 260,000. After costly water valve repairs and leak repairs, they looked up the volume of water purchased a quarter before the repairs were made and a quarter after. That number was 5 million gallons saved which equals close to \$30,000 saved. He believes the valves in the creek on 63 had been leaking for quite a while. It's no one's fault, it's difficult to locate water leaking in water. He will monitor it for a while. October 31 a resident called regarding a potential water leak on East Shelby Rd. With the help of the village and Ridgeway, it was repaired but in the process of shutting main valves off they discovered a bad one so on Nov. 6 they went back up with the help of village vac truck and Town of Barre and in short order had the repair made. Pea gravel had apparently gotten up on the operating nut. It was the driest repair they had ever done. Thanks Jason and Barre boys. Trailer- they have been needing for close to two months now. He has been asking for approval to purchase a 25,000-pound trailer to haul our mini excavator. As per the procurement policy he needs town board approval. If it weren't for the other town coming and hauling our excavator to the job site water main break and valve repairs, we would have to drive it down the road. As far as the joint ownership of the trailer that we have now between the village, Ridgeway and Shelby, they cannot be expected to have that trailer 24-7. They receive more from our partners than the value of what we invested. Prior to this we had our own trailer. That trailer is 21 years old with a bent axle and our equipment is heavier. Your putting public safety in jeopardy. Please approve soon. The first slating came Nov. 1 as we observed a couple of slick spots early that morning. The second time was November 8, in the evening. Yesterday they got the county stump grinder and started to grind leftover stumps from early spring.

Please get me a message if you have one near the road we forgot. Took delivery of 4500 gallons of diesel. Waiting paid off as fuel dropped to 3.05 by the end of last week. They are set till late spring now. They have plenty of salt and fuel to plow for quite a while. He spoke about a water test failure that was brought up a while ago. Niagara County water comes out once in a while to spot check. He received a call from them to have somebody meet the sampler to acknowledge this residence had public water. Rusty met him and stated in the affirmative that there was. The sampler took three samples, the residence, upstream and downstream. Up and down stream samples passed. The residence failed. Second sample failed. Third sample taken where it was presumed the sample port being used was probably not hooked up to public water as it was an outside hose spigot. Monday morning the residents who were away were located and confirmed the outside hose is hooked up to a well so no time was public water in jeopardy. We take water quality very seriously. The cemetery water has been shut off; lines drained. Soon we will get all the refuse barrels dumped and put away. Ongoing e-waste stacking.

Jim Zelazny has a letter from Ed Zelazny. It had to do with the code of ethics law.

Assessor Report: Trisha Laszewski. There are 2 resolutions on the agenda tonight. One to set the public hearing proposal of law to amend income eligibility level and the percentage of partial tax exemption for person 65 years or over. And a resolution to set the public hearing for proposed local law to establish the disability exemption to set the income eligibility levels for persons with disability and limited incomes. Trisha- not revised in their way that basically, what those both are is New York State came up with a new way to identify or define income for those two exemptions 467 and 459-c and the state is allowing for local options to opt in or opt out of different parts of those changes so what I am asking is the town just keep everything the way that it's been so we've been offering both of those exemptions the way that the income is calculated. Just want to keep it the way that it has been. Hopefully those two will be passed tonight. She will be retiring at the end of December and she will not be at the next meeting as she will be out of town but Julie Cecchini will be the new Ridgeway assessor so she will carry on providing the Assessment Services for Shelby. Kathy-are you requesting that the exemption limit be revised? Trisha -Not the way the state standard verbiage that the state presented but to opt in or opt out of certain parts of that as we can by law to allow us to identify income the way we always did. Kathy- has the town opted in to both of those exemptions? They have both of the exemptions already. Kathy so the town offers both of those exemptions and in terms of calculating income you're looking to calculate income the way you do now but I

also know that their income limit has changed. Trisha the income limits changed last year. Kathy and the town adopted that. Trisha-yes

Planning Board Report: (Kirk Myhill)-Meeting was cancelled

Zoning & Code Enforcement Report: (Dan Wolfe)- It was a short month for him because he took a few days' vacation but before that he hustled issuing five building permits and two of those permits were for new houses, one on Salt Works Rd and the other on East Shelby Road, one for a car port, one for a lean-to storage and one for enclosed front porch. He worked a total of six days in October and most of that time spent closing out or completing building permit projects. Most of the time he gets asked these questions and this is just an FYI for the public. When do I need to get a building permit? Do I need to get a building permit for a fence? Yes, you do. How about a pool? Yes, you need a building permit for a pool, front porch. What about a roof? If you're just going to do a re-roof no building permit required. You can call him anytime, me and ask him questions. His office is always open, his phone is always on. Another often asked question is how about a storage shed? There is a 10 x 12 rule. If its under a 10 x 12 or under you do not need a building permit. If it is over that you are required to obtain a building permit and finally one of the most often asked questions he gets is if someone puts up a structure, if I put up a storage shed, if I put up a pole barn will I be taxed? I get that every week and this is Dan's answer. We have wonderful assessors in the Town of Shelby and the Town of Ridgeway and I appoint them to Trisha and Julie- their office is open anytime. 798-0730.

RESOLUTION NO. 77-23

RESOLUTION TO APPROVE MINUTES OF TOWN BOARD MEETING SEPTEMBER 12, 2023

Motion by Councilman Seitz and seconded by Councilman Schiffer

Ayes- 4

Opposed- 0

Excused-Zelazny

Motion carried

RESOLUTION NO. 78-23

RESOLUTION TO APPROVE SPECIAL MEETING MINUTES OCTOBER 5, 2023

Motion by Councilman Schiffer and seconded by Councilman Pratt

Ayes- 4

Opposed- 0

Excused-Zelazny

Motion carried

RESOLUTION NO. 79-23

RESOLUTION TO APPROVE THE PUBLIC HEARING MINUTES OCTOBER 10, 2023

Motion by Councilman Schiffer and seconded by Councilman Seitz

Ayes- 4

Opposed- 0

Excused-Zelazny

Motion carried

RESOLUTION NO. 80-23

RESOLUTION TO APPROVE THE TOWN BOARD MEETING MINUTES OCTOBER 10, 2023

Motion by Councilman Seitz and seconded by Councilman Schiffer

Ayes- 4

Opposed- 0

Excused-Zelazny

Motion carried

RESOLUTION NO. 81-23

RESOLUTION TO APPROVE THE CLERK REPORT (OCTOBER)

Motion by Councilman Schiffer and seconded by Councilman Seitz

Ayes- 4

Opposed- 0

Excused-Zelazny

Motion carried

RESOLUTION NO. 82-23

RESOLUTION TO PAY CLAIMS AGAINST THE TOWN

General-	\$	43,878.99		
Highway-	\$	44,639.43	Water 6-	\$ 60.51
Water 1-	\$	62.69	Water 7-	\$ 189.32
Water 3-	\$	110.69	Water-8	\$ 22.43

Motion by Councilman Schiffer, and seconded by Councilman Seitz

Ayes-3

Opposed- Pratt

Excused-Zelazny

Motion carried

RESOLUTION NO. 83-23

**RESOLUTION TO ACCEPT THE RESIGNATION SEPTEMBER 15, 2023
OF DOROTHY NOLAN**

Motion by Councilman Pratt, and seconded by Councilman Seitz

Ayes-4

Opposed-0

Excused-Zelazny

Motion Carried

**TABLE-RESOLUTION TO ALLOW PAM HENRY TO COSIGN ON
TOWN CLERK AND TAX ACCOUNTS**

RESOLUTION NO. 84-23

**RESOLUTION TO SET PUBLIC HEARING ON DECEMBER 12 AT 6PM
FOR PROPOSED LOCAL LAW NUMBER 2 OF 2023 TO AMEND THE
INCOME ELIGIBILITY LEVEL AND THE PERCENTAGE OF PARTIAL
TAX EXEMPTION FOR PERSONS SIXTY-FIVE YEARS OR OLDER**

Motion by Councilman Pratt and seconded by Councilman Schiffer

Ayes- 4

Opposed-

Excused-Zelazny

Motion carried

RESOLUTION NO. 85-23

**RESOLUTION TO SET PUBLIC HEARING ON DECEMBER 12 AT 6PM
FOR PROPOSED LOCAL LAW NUMBER 3-2023 TO ESTABLISH THE
DISABILITY EXEMPTION AND SET THE INCOME ELIGIBILITY
EXEMPTION LEVELS FOR PERSONS WITH DISABILITIES AND
LIMITED INCOMES.**

Motion by Councilman Seitz, Seconded by Councilman Pratt

Aye-4

Opposed-0

Excused-Zelazny

Motion carried

Resolution to adopt the Preliminary Budget we are putting off till Monday, November 20th. We adjourned that meeting.

Resolution to adopt the proposed Code of Ethics is pushed off until Monday, November 20, at 7:00 PM also.

Councilman Pratt -Made a comment on the Code of Ethics. For next year with new members coming on the board, thinks it should be tabled until the January meeting so they have a chance to look at it and if they have any questions or changes, they can move it then. Councilman Pratt makes a move that it be tabled until the January meeting. Kathy Bennett read statement that was shared tonight. It was on behalf of Councilman Zelazny regarding the proposed Ethics Law: Town Board and Shelby Residents, I have concerns about the new ethics law the town is considering and the vote should be tabled. Here are some of the issues that I have with the proposed legislation. 1.-Vague language. The law isn't clear enough in certain places, there are other sections that require more definition and explanation to the board and the public. 2.- Need for public input, changes have been made to the law since it was first introduced without public discussion. It's important everyone gets a chance to speak up before we pass a formal law. There needs to be another public hearing for residents to weigh in on this. 3.- Retroactivity in specific cases we need to know if this law will apply to past actions like the repeated breaches of Councilman Seitz who has regularly made motions and seconded motions to place his live in companion on various town boards in addition to voting on budgets for the fire companies that he sells merchandise to 4.-Definition issues the laws don't clearly define what relative is which could cause confusion. 5.- Timing of the vote on this law raises concerns with a new board set to take office in January it seems more sensible to table this vote until then. The incoming board members who will be governed by this law for the next four years should have a say in its enactment. 6.-

Missing clauses if the supervisor insists on enacting a new law the law should also address the conflict of interest for those serving on both the town Republican

committee and other Town boards. Seven-State laws and Town handbook adding a new local law is overkill, section 18 of the New York State General Municipal Law already exists. There's a 20-page manual that extensively covers the state's law on conflict of interest on the part of the Municipal officers and employees. The Town also has a handbook that was revised four times since 2021. The town handbook covers Ethics in more detail. While updating the town's ethics policy may be a good idea. We need to make sure it's clear, fair and includes everyone's opinions. I suggest we wait and discuss this more in January before the board votes. Thank you. Ed Zelazny. As the Town Attorney for the Town of Shelby article 18 of the General Municipal Law requires municipalities to have a code of ethics. The town of Shelby does not have one. The law that has been proposed and that has been out for public comment is the model code that appears on the New York State Comptrollers website unchanged. That's what the New York State Comptroller's office thinks all municipalities, villages, cities, counties, school districts, fire districts in New York State should adopt. She had a conversation with an attorney from the comptroller's office who told her with no doubt that if the town doesn't have a code of ethics, it needs to adopt one, otherwise it is not compliant with the General Municipal Law. Alan Bushover-Nobody is saying they shouldn't have one. Kathy Bennett-The statement says adding a new local law is overkill, that section 18 of the General Municipal law already exists and that there is a 20-page manual that extensively covers the state's law on conflicts and that there is a town handbook. The Town of Shelby needs a code of ethics, it doesn't have one. As for vague language and definition issues the law that's before the town board is the model code that's on the comptroller's website. That's what New York has out there for municipalities to adopt. The only change that we made and Mr. Zelazny is right there was a change and that change was made in response to specific comments made by the public with respect to board members serving on political committees and having to recuse themselves from certain votes. We did make that change based on the comments we heard from the public so that is now in the proposed law and the board is going to continue that public hearing next Monday and then it can be decided at that meeting whether or not to move forward with that code of ethics. Supervisor asked if the board had any comments. No one had any comments. Supervisor is going to make a copy of the town salaries. It will be published for all employees and elected officials.

Public comments-Linda Limina- Asked about the Supervisor report. During the budget process Supervisor had commented that there were issues with the Supervisor report showing negatives and that the person inputting the account numbers at Williamson was inputting wrong accounts and she was terminated.

Miranda is working with another programmer to make sure the information is accurate. Supervisor said he asked Williamson to send a letter regarding this and they said they would. The August Supervisor report is done and once the bills are paid will work on September and October. It won't be a manual report anymore. You will be able to get the report right off the computer. Linda also asked about the monthly report. But it won't happen until everything is corrected. Linda asked if there is an annual cost or monthly fee for the Williamson software. Miranda said they are not charging them while they are getting this straightened out. She did not know the time frame of when it will be corrected.

Lawrence Waters – Asked if some of the budget items are going to be revised. He asked again about the rate. Supervisor told him the rate is not determined until all of the figures are approved for the budget. Supervisor said the tax cap is 1.5 million. We are at 1.3 million so we are well under the tax cap. It is going to change with what they do with the budget but townwide last year was 4.4 and this year we are at 2.21. Last year outside was 6.7, this year we are at 4.17. But it has to do with the assessments like they said. The assessment was going to drop your taxes. Larry asked Dale about the bids for the trailer and did he go through Sourcewell and how many prices did he get. Dale said he got 2 prices. He said New York Trailer Sales in Buffalo was the cheapest. Larry said to make sure they are Sourcewell certified to get the maximum discount.

Karen Jones- Requests the board return to work sessions. She would like a draft of the organizational meeting resolution published before the meeting. She looked at last year resolution 1-23 and it listed employees, positions and salaries. She said Miranda Bennett was appointed bookkeeper, and confidential secretary to the supervisor, human resource manager and as IT program manager. That is a lot of appointments and didn't see anywhere she was compensated for those appointments. Was it listed anywhere in the budget? These were questions she had regarding the software problem that we have experienced. Supervisor said its all under bookkeeper. He said it is one straight job and she gets paid hourly. She referred to the document she gave town clerk regarding the Town of Yates. Its an example of a salary schedule that has a cap and tells hourly rate, how much everybody makes. Its easy for the public to see those numbers. She also commented on the facebook page the day before the election. This post came from admin. so, she doesn't know who, but she knows it came from the Town of Shelby. It was regarding the towns of Shelby and Royalton coming to a verbal agreement regarding the purchase of water from Niagara Water Authority. It showed a picture of Supervisor Wengewicz, Councilman Schiffer and Highway Supt. Dale Root all candidates in the General Election the following day. She said she doesn't think it is accurate to say you can just open a valve and have water directly from Niagara County. She said we have had a long-standing agreement

with the Village of Medina, three water pumps in the Village of Medina and why on earth would we squander the good relationship we had in the past with them. She said its important to maintain the relationship and thinks the cost is not just about the village of Medina. I know I am not the only person that was shocked to see such a post the day before an election and I hope you would reconsider the type of posts that you share. Her last comment was to Ms. Bennett-she found that her comments regarding the concerns that Councilman Zelazny had, she thought were just defensive sounding and her tone was disrespectful and it was disrespectful to many members of this town who, we are not country bumpkins who don't understand the law. We understand the idea of a model code and that it is required and we very much believe in ethics. To suggest otherwise is an insult. In fact, it is the ethics that concern us. We have members who she respects who also sit on the committee that decides who's running, they have the power to elect themselves. Some of us find this problematic and so when Mr. Pratt brought it up in August or September a lot of us were startled. It hadn't occurred to us and she imagines it didn't occur to those in Albany who don't live in a rural area with so few candidates. In a perfect world she thinks that somebody who was on the Republican committee would recuse themselves, would step aside from the Republican committee once they had decided to be a public official here for the Town of Shelby, not serve in both capacities because there are grey areas concerning ethics. We want an ethical code but we want it to be right and I think that the point Mr. Pratt and Mr. Zelazny brought up about letting the new elected officials decide this in January is a valid one. In any case she knows she is not the only person that felt like Ms. Bennett was yelling at us. We are not against ethics. Darlene Rich-Congratulation to Trisha the assessor who is retiring at the end of the year.

Sharlene Pratt- Congratulated Trisha. She has enjoyed working with her and will miss her.

Motion by Councilman Pratt and seconded by Councilman Schiffer to adjourn the Town Board Meeting at 8:33pm

Motion carried

Respectfully submitted,

Darlene Rich, MMC, RMC
Town Clerk