

The Regular Meeting of the Alden Town Board was held in the Town Hall at 3311 Wende Road on Monday, December 19, 2016 at 7:00 P.M. Supervisor Savage called the Meeting to Order and Councilman Witt led in the Pledge of Allegiance. The Roll Call was taken by the Town Clerk.

PRESENT: Richard Savage, Supervisor
Colleen Pautler, Councilwoman
Ralph Witt, Councilman

RECORDING SECRETARY: Debra A. Crist, Town Clerk

OTHERS PRESENT: Jennifer Strong, Town Attorney
Gary Wagner, Highway Supt.
Chris Snyder, CEO
Colleen Rogers, Deputy Supervisor
Michael Metzger, Town Engineer
Len Weglarski, DCO
Residents

Councilwoman Pautler Moved and Councilman Witt seconded the Motion to approve the Minutes and Synopsis of the Regular Meeting of December 5, 2016. The Motion was put to a Roll Call Vote on December 19, 2016 and

CARRIED.

Ayes 3 Savage, Pautler & Witt
Nays 0

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN PAUTLER AND SECONDED BY COUNCILMAN WITT TO WIT;

<u>ACCOUNT</u>	<u>ABST. #1</u>	<u>ABST. #2</u>	<u>TOTAL</u>
GENERAL FUND "A"	\$7,510.60		\$7,510.60
HGHWY FUND "DA/DB"	2,536.96		2,536.96
PART-TOWN FUND "B"	2,229.00		2,229.00
CONSOLIDATED WATER "WR"			
SP FIRE PROT. "SF"			
SD#2 FUND "SA"	2,339.08		2,339.08
TRUST/AGCY FUND "T"	1,093.44		1,093.44
SP REFUSE FUND "SR"	35,957.53		35,957.53
STREET LIGHTING FUND "SL"	6,688.63		6,688.63
PERIWINKLE LTG. "SL1"	44.17		44.17
GRANTS			
TOTALS	\$58,399.41		\$58,399.41

UPON ROLL CALL VOTE ON DECEMBER 19, 2016 THE FOREGOING RESOLUTION WAS

ADOPTED.

Ayes 3 Savage, Pautler & Witt
Nays 0

Supervisor Savage explained the vouchers are the bills that are paid by the Town twice a month.

BUSINESS FROM THE FLOOR

There was no business from the floor.

COMMUNICATIONS

Attorney Strong:

A check was received from the Wyoming County Sheriff's office as the next installment of the Weber wage garnishment. It was turned over to the Supervisor's office.

Supervisor Savage:

1. A notice was received of a Public Hearing at the Wyoming Regional EMS Council.
2. A monthly statement from the Town Clerk.
3. A request from NYS Achieves indicating that there is grant money available for converting old microfilm to digital images.
4. The Village of Alden Board minutes from November 22, 2016.
5. A request was received from Megan Yoerg, Director, from the Alden Soccer Tournament requesting use of the fields at R.O. Smith- This is to be placed on the Work Session.
6. A memo was received from Paul D'Orlando, Principal Contract Monitor from County of Erie notifying us that we have been awarded a grant to update the kitchen facility at the Town Senior/ Community Center in the amount of \$43,116.00.

AT 7:05 P.M. SUPERVISOR SAVAGE MOVED TO ADJOURN FROM THE REGULAR MEETING AND ENTER INTO THE PUBLIC HEARING REGARDING LOCAL LAW NO. 4 OF THE YEAR 2016 ENTITLED: "REVISIONS TO CHAPTER 20: CREATING RESTRICTION ON BERMS; WALLS AND FENCES; AND PERMITTING HEN CHICKENS WITH CERTAIN RESTRICTIONS; AND EASING RESTRICTIONS ON AG. LIVESTOCK FENCING". COUNCILWOMAN PAUTLER SECONDED THE MOTION. THE FOREGOING MOTION WAS PUT TO A ROLL CALL VOTE ON DECEMBER 19, 2016 AND CARRIED.

Ayes 3 Savage, Pautler & Witt

Nays 0

SUPERVISOR SAVAGE GAVE AN OVERVIEW OF THE LAW AND ASKED THE CLERK TO READ THE NOTICE OF PUBLIC HEARING THAT WAS PRINTED IN THE ALDEN ADVERTISER.

THE FLOOR WAS OPENED FOR PUBLIC COMMENT:

Nick Kraatz /Wende Rd. referred to the Berm Law – he agrees with (C) Performance standards. He does not agree with the rest of the law. If it does not obstruct the roadway, why can't we move dirt on our property anywhere we want to. We pay for our house and mortgage and our property we should be able to do what we want. Just because someone wants to landscape their property a certain way there does not have to be a law against it. Supervisor Savage said there is not a law against it there is a proposed law with regulations. Nick would like to see the CEO go out on trash day and give tickets to everyone that lets their garbage blow all over in ditches and everyone's property. If it is about money, there are other ways to make money. Supervisor Savage reiterated that one of the reasons that they are addressing berms is because of Mr. Kraatz's berms. Numerous complaints have been received on them. It is not unreasonable after a year to expect vegetation on a berm. Supervisor Savage said that you can put a berm anywhere on your property according to code. Mr. Kraatz felt that you should not have to pay to move dirt around your property. Supervisor Savage said the only regulations are visibility and height comparable to the fence law. CEO Snyder said drainage is also an issue. Supervisor Savage said he does not want to see mounds of dirt used for berms and years later they still look like mounds of dirt with no vegetation.

Judy Fleming/Main St. questioned if the issues with the berms are appearance? Supervisor Savage replied no that it is drainage, appearance, height, visibility for pedestrians and cars. She questioned as whether or not Mr. Kraatz was in compliance as it stands. Supervisor Savage said there is no berm law presently, but it is probably higher than it should be as allowed in the new law. The new berm law will not be retroactive. Supervisor Savage referred to the berm on the corner of Old Wende and Walden how attractive it is yet is probably higher than the new law would permit. He will not have existing berms changed to code.

Steve Fox/Old Wende responded that that berm on Old Wende and Walden had been approved by the Town many years ago when the house was built. Supervisor Savage responded that there was no berm law, but it was probably part of the site plan.

Melanie Rimkus/Genesee did some research on surrounding Towns and their chicken laws and found that they do not have a chicken law. She feels we are going to start making precedence and should take time as the first people in the area to make some serious amendments and decisions. She noticed that Buffalo and Amherst have a chicken law and some of the restrictions are not as harsh as Alden. They are allowed in Buffalo and Amherst to free range in their yards. She does not understand the need for the law. Supervisor Savage explained that unless you live in a RA area it is illegal to have chickens in the Town of Alden. When it started out Attorney Tom Steffan gave Supervisor Savage some laws that were in other municipalities. Some of the laws are similar but the difference we had with neighbor concerns is chickens being killed by neighbor's dogs if they are free-range. The idea of this law was to try and

make it work for the lowest common denominator which is a subdivision with 100' frontage x 200' lots so six chickens could live in harmony with the neighbors. This law does not affect the vast majority of the Town as they are zoned RA. RA is the only area in the Town that allows poultry farming as permitted use. The idea behind it was not to restrict, but try and make it legal so that people who are doing it can make it legal. The Town is not against having chickens. Melanie felt the space required by the law to keep the chickens in is too small. She would like to see them be able to get out and exercise. She has concerns that neighbor disputes could control what you are able to do on your own property.

Mark Casell/Baxter wanted clarification that there aren't any livestock allowed anywhere except in RA districts. Is that in chapter 20 or somewhere else? Supervisor Savage said it is in chapter 20. Mark asked if in the code is that the only place it is mentioned. Supervisor Savage said poultry farming is exclusively mentioned. Supervisor Savage quoted chapter 20. Mark asked if in the code does it explicatively say no livestock in residential? Supervisor Savage stated that if it is not a permitted use then it's not inferred that it's not. Attorney Strong said that the zoning code is written that it gives you what you can do. If the code doesn't say you can, then you can't. It started out with R1 and R2 and had Work Sessions and it did not work for people in R3, so R3 was added. It will work for every Zone except manufacturing.

Lee Weisbeck/Sandridge on the previous version you had to have a permit for the coop, do you still have to? Supervisor Savage said they took it out. There was never going to be a fee. When you apply for the special permit you need to come up with a design to show the CEO. Lee wanted to know where to dispose of the manure. Supervisor Savage said he should let his ingenuity take care of that. Lee asked if the 100' included the chicken coop? Supervisor Savage said he would say it would. Lee said chickens in a small coop like that can become canabalistic.

Supervisor Savage said fees were discussed. Fees are not part of the law; we adopt fees at the Organizational meeting in January. He put \$25.00 for the initial fee, because you have to have a Public Hearing, Notice has to be printed in the Advertiser and neighbors within 200' must be notified. He had the Clerk check the fees and it is pretty close for the actual cost. It will be \$5.00 for renewal. There won't be a public hearing unless complaints have been received.

Jim Guarino/North Rd. when he went over the codes, it states general farming uses, but there is no description of general farming uses. Supervisor Savage said he did not believe they are only spelled out in any code except RA. It has been mentioned in the code as 10 acres being the minimum size for a farm. The right to farm law has farms of any size and ag & markets does not call for any minimum size of a farm. The 10 acre mentioned in the code does not match the State regulations. This will part of the whole codebook update. The code is being redone presently and will be edited. Jim wondered if there should be description of general farm uses. Supervisor Savage said the danger of that is he can't name everything that somebody wants to do farming because then you are precluding someone.

Judy Fleming/Main St. it appeared to her that all this hoopla over a chicken law came about because two neighbors could not get along with each other. Supervisor Savage said it was one neighbor complaint and they had to get rid of the chickens. Judy asked if the two neighbors live in a subdivision. She feels that when you move into a subdivision that's not a farm. If she moved into a beautiful subdivision, she would not want chickens next to her home. Those people should buy an acre or two to have chickens. Supervisor Savage does not think people should be precluded because they have a 100 x 200' lot. There are a lot of people in Alden that have chickens and are not zoned correctly. They are working towards trying to fix this situation. They are trying to make it livable for everyone.

Edie Sims/Sandridge she did not want to be blanketed with others as they are not all in subdivisions. She feels the whole thing should be tabled and really looked into, because you are representing the Town, not the few people that have issues. Her children grew up in 4-H and there are so many things that this chicken law that does not even allow them to participate in the poultry division. Because if you raise meat birds and are going to auction them off at the fair you can't get 6 birds and hope that one of them will make it at the fair, you have to order more than that. When you get the chicks you don't know if they are hens or roosters because by 12 weeks they are gone. This law is limiting and taking away that learning experience from the children in this Town. She agreed the coop size too small and chickens will go after each other. Supervisor Savage said they thought about doing it by area, but that doesn't work. We are looking for something simple that will work at the lowest common denominator. If you want something more you have to go to the ZBA. Edie does not think you can ask 4-H children to come up with \$250.00 for a variance. She asks that they delay this because it has not been thought through well. Supervisor Savage says he takes umbrage with that because we have been working with a number of people in the community for 3 months on this. Edie asked if any members of 4-H have been

working with the Town. Supervisor Savage said they have not. Edie said that there were members of 4-H present tonight that would like to speak and introduced Valerie Weisbeck.

Valerie Weisbeck/Broadway has been in 4-H for 12 years and has been raising poultry for 11 years. She attends Cornell University to study agriculture. There has been a study and only 11% of New York State 4-H members live on farms and 76% live in Towns like Alden. She would like to see youth more involved with agriculture. She said that kids that are involved with agriculture are a lot more responsible, hardworking and dedicated. Chickens are the easiest 4-H project and that is how she started. She has raised many animals and would not be the person standing in front of the Board had she not had the animals in her life.

Councilman Witt commented that the Town Board is not taking anything away from anybody. Everybody that can legally raise chickens or any farm animals now will continue to legally be able to raise them. What we are doing is allowing people in areas where it is illegal to legally do it now. So they are giving the public something, not taking it away.

Supervisor Savage said perhaps there could be a way if they are raising chickens for 4-H that they may have more for the year. After the public hearing, maybe he could sit down with Valerie and Mrs. Sims and get input from their experience regarding 4-H projects.

Melissa Goff/Lavender Lane lives in a subdivision. If she has a neighbor who puts a coop in their back yard, it will be in her front yard as the lots are positioned. She is R1 will this be allowed? In her case Supervisor Savage said when they would hold the Public Hearing she would have a good reason why to object to the permit. She does not want chickens shoved down her throat. Supervisor Savage said there are a lot of people that want to raise chickens for fresh eggs. They are doing it in much more densely populated areas than Alden. She cannot even plant trees on the side of her lot because the farmer has certain rights. Why should the farmer have rights and she is not allowed to say she does not want chickens. She will be advised should someone want to have chickens within 200' and at that time can voice her concern.

Ron Rebmann/Broadway said that Mr. Witt says you are not taking anything away. But years ago they had cows, horses, chickens & pigs. Now you are telling him he would have to go to the Zoning Board of Appeals to get back what he was allowed years ago. Supervisor Savage said Ron is zoned RA behind him. Ron said that it is not, it was a brainstorm of the Town to change the zoning to Commercial years back because a guy wanted to put a driving range and storage sheds up. He wants the rights back he had 25 years ago, not for himself but for the future should he have a potential buyer down the road should he chose to sell. They should not have to go to ZBA for a variance. It took him a year to get his house rebuilt after a fire. Supervisor Savage said we are not talking about rezoning.

Attorney Tom Steffan stated that he started all this for a client and wanted to thank the Board doing a tough thing, trying to legislate when people have a lot of different interests. He felt it was handled well and professionally. His client is being prosecuted in the Court and facing a \$250.00 fine for having chickens in an area not zoned. It happened to his client and it could happen to others. That is why we make laws and rules to follow. At one time the Town was all RA and people did whatever they wanted. Citizens got together and decided on zoning codes. We can't go back and must go forward. The Board has done a good job with a practical solution. It is not going to make everyone happy. The Board has decided what is best overall .

Cathy Aldinger/Three Rod Rd. wanted to address the comment made about the trees prohibited being planted by the farm land. Her family is the owners of the farm abutting the properties in the Periwinkle subdivision. Trees would pull the nutrients out of the farm land where they plant their crops and have an adverse effect. The farm has been there since the 1840's and they make a living from their farm. Her point with the chickens is that when her chickens get out they head right towards her flowers and dig them up. If you are in a set back of a 100' lot you are asking for trouble to free-range chickens you are asking for predators to come in. You should be able to have chickens. She use to take baby pigs to school and the children had no idea where their food comes from. As a right to farm community we have to make the Town of Alden a right to farm community not just the RA districts. We need to keep farming alive.

Phyliss Piezala/Gebhard Lane grew up in Cheektowaga and did not even have a dog or a cat but they learned where food came from.

John Weisbeck/Broadway is kind of in favor of the law, but it does need tweaking. 100 sf for 6 chickens is inadequate. A small building approximately 200 sf that you can step into and store food in may work. They came up with 100 sf because they normally don't tax anything under that amount. Chickens will

kill each other in any area that is too small. He appreciates the work of the Board giving people the opportunity to have chickens that were unable to have them before.

Melissa Goff/Lavendar Lane does not feel that chickens should be allowed where you are surrounded by R1 in a subdivision.

Judy Fleming asked if there is a committee of residents of people that have chickens that can input information.

Supervisor Savage said he has been getting input from residents like Lee and Vikki Weisbeck, Steve and Phyliss. He will now get a hold of John and Valerie and question them. He will discuss size with the CEO, increasing it without triggering a taxable situation. Those are a couple of minor changes. In the past it wasn't all districts, now we have all districts, except manufacturing. Then the fees were too high and they got the fees down to cost. If there haven't been any complaints, he can take the \$5.00 off the renewal and make it free. We are hearing tonight size and if 4-H more than six birds. That possibly can be included as a part of it. If there are not a lot of changes, we won't need a 3rd public hearing on it. It can be adopted in January.

Bryan Wagner/Sandridge agreed that the number of chickens allowed needs to be raised. They need more than 100 sf to roam. Chickens are very cannibalistic and will kill each other. Brian questioned condition #5 – subject to all applicable sanitary, noise and property maintenance regulations and local laws. Supervisor Savage said there is a noise law so many decibels, must be kept clean and not let manure pile up. Bryan said that guinea hens are very loud. Supervisor Savage said they are not allowed. Brian said that chicken manure is an excellence source of nitrogen for gardens. Supervisor Savage did not disagree. He will not send the CEO out to check on composting. Bryan said we have a leash law that would prevent dogs roaming and going after chickens that were free range. Supervisor Savage said unfortunately not all dogs are leashed. This is trying to prevent ill feelings. Bryan said the changes made tonight are conforming more to the public. Bryan said that at a meeting his name was mentioned as having chicken feed with heavy metals and arsenic in it. He is inspected four times a year by the Health Dept. in 91 years they have never had a violation. He does not appreciate people that are ignorant saying things. Supervisor Savage said he researched the feed and it conforms to all requirements.

AT 8:35 P.M. AFTER ALL THOSE WISHING TO BE HEARD WERE HEARD, SUPERVISOR SAVAGE ASKED FOR A MOTION TO ADJOURN FROM THE PUBLIC HEARING AND ENTER BACK INTO THE REGULAR MEETING. COUNCILWOMAN PAUTLER MOVED AND COUNCILMAN WITT SECONDED THE MOTION. THE FOREGOING MOTION WAS PUT TO A ROLL CALL VOTE ON DECEMBER 19, 2016 AND CARRIED.

Ayes 3 Savage, Pautler & Witt
Nays 0

NEW BUSINESS

Councilman Witt Moved and Councilwoman Pautler seconded the Motion to renew the license to operate a Junk Yard business for Alden Truck Ltd./2731 Townline Rd. for the Year 2017. The foregoing Motion was put to a Roll Call Vote on December 19, 2016 and

CARRIED.

Ayes 3 Savage, Pautler & Witt
Nays 0

Supervisor Savage Moved and Councilman Witt seconded the Motion to renew the Home Occupation Permit for Marie Paone, 916 Three Rod Rd. for a period of one year. The Home Occupation Permit is for a Beauty Shop and retail sale of beauty products. The foregoing Motion was put to a Roll Call Vote on December 19, 2016 and

CARRIED.

Ayes 3 Savage, Pautler & Witt
Nays 0

Councilwoman Pautler Moved and Councilman Witt seconded the Motion to renew the Home Occupation Permit for Deneda Gasiiecki, 12615 Main St. for the purpose of dog grooming for a period of one year. The foregoing Motion was put to a Roll Call Vote on December 19, 2016 and

CARRIED.

Ayes 3 Savage, Pautler & Witt

Nays 0

Councilman Witt Moved and Councilwoman Pautler seconded the Motion to permit the Alden Winterfest Committee to use the Town Park facilities on Feb. 3rd and 4th 2017 as delineated in their 11/30/16 dated letter, received 12/13/16, subject to all passed requirement. The foregoing Motion was put to a Roll Call Vote on December 19, 2016 and

CARRIED.

Ayes 3 Savage, Pautler & Witt

Nays 0

THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR SAVAGE WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN PAUTLER TO WIT;

WHEREAS, the Town Office of Emergency Management has advised the Town Board that the Town is in need of a new portable communications system that will be purchased from State Bid (Contract PT67414);

WHEREAS, The Town Board after full and careful review and consideration finds the request to purchase a new communication system as being in the public interest;

WHEREAS, the new communication systems consist of:

QTY	DESCRIPTION
3	Kenwood UHF 5 Watt Digital Portable with P-25 Conventional key, Li-Ion Battery, Rapid Charger, Antenna and Programming
3	Vehicle Charger Adaptor, Includes Rapid Charger
5	Kenwood VHF 5 Watt Digital/Analog Portable with Antenna, Li-Ion Battery, Rapid Charger
5	Vehicle Charger Adaptor, Includes Rapid Charger

will be purchased pursuant to State Bid; and

WHEREAS, the Town’s Procurement Policy & Procedure Guidelines and General Municipal Law have been followed.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS, THAT:

1. The Town Board hereby authorizes the purchase of a new portable communication systems as described above for a total cost of \$6,198.00 from FM Communications Inc.;
2. That the Town Supervisor is authorized to sign any and all necessary documents to effectuate this purchase; and
3. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll call vote at a regular meeting on December 19, 2016, and

ADOPTED.

Ayes 3 Savage, Pautler & Witt

Nays 0

SUPERVISOR SAVAGE POLLED THE BOARD AND WITH NO OBJECTION THE FOLLOWING WAS ADDED:

Supervisor Savage Moved and Councilwoman Pautler seconded the Motion to approve the Alden Senior Citizen’s request to use the Senior/Community Center on February 13, 2017 11:00 A.M. to 3:00 P.M. for an inside Hot Dog Roast. The foregoing Motion was put to a Roll Call Vote on December 19, 2016 and

CARRIED.

Ayes 3 Savage, Pautler & Witt

Nays 0

UNFINISHED & TABLED BUSINESS

Supervisor Savage Moved and Councilman Witt seconded the Motion to table the Resolution adopting Local Law #4 of 2016: Revisions to Chapter 20: creating restriction on Berms; Walls and Fences; and Permitting Hen Chickens with Certain Restrictions; and easing restrictions on Ag. Livestock Fencing. The foregoing Motion was put to a Roll Call Vote on December 19, 2016 and

CARRIED.

Ayes 3 Savage, Pautler & Witt

Nays 0

REPORTS OF COMMITTEES, OFFICIALS AND PERSONNEL

There were no reports.

NOTICE OF MEETINGS:

(Work Session Dec. 26, 2016 Cancelled)

NEXT WORK SESSION: January 9, 2017 @ 7:00 P.M.

NEXT TOWN BOARD MTG.: January 2, 2017 @ 7:00 P.M.

(Reorganizational Mtg.)

MEMORIAL REMEMBRANCE

Supervisor Savage asked all to stand for a Moment of Silence in Memory of Vincent Medbury.

ADJOURNMENT

At 8:44 P.M. Supervisor Savage adjourned the Meeting.

Debra A. Crist
Alden Town Clerk