

MEETING NO 2
REGULAR NO 2

REGULAR BOARD MEETING

JAN. 16, 2007
7:30 P.M.

The Regular Meeting of the Alden Town Board was held in the Town Hall at 3311 Wende Road on Tuesday, January 16, 2007 at 7:30 P.M. Supervisor Smith called the Meeting to Order. Councilman Weber led in the Pledge of Allegiance. The roll call was taken by the Town Clerk

PRESENT:

Ronald L. Smith, Supervisor
Mary F. Riddoch, Councilwoman
William Weber, Councilman
Ronald L. Snyder, Councilman
Arlene A. Cooke, Councilwoman
Dorothy L. Bycina, Town Clerk
Debra Crist, Deputy Town Clerk
Jennifer Strong, Town Attorney
Michael Metzger, Town Engineer
Michael Fleming, Planning Board
Lenny Weglarski, DCO

RECORDING SECRETARY:

OTHERS PRESENT:

Councilman Snyder moved and Councilman Weber seconded the Motion to approve the Minutes and Synopsis of the Regular Meeting of January 2, 2007. Unanimously carried.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE AND SECONDED BY COUNCILMAN SNYDER TO WIT

ACCOUNT	ABST #1	ABST #2	TOTAL
GENERAL FUND "A"	26,480.40		26,480.40
HGHWY FUND "DA/DB"	7,049.46		7,049.46
PARTTOWN FUND "B"	6,398.30		6,398.30
WD#2 FUND "WB"	375.20		375.20
WD#3 FUND "WC"	1,983.20		1,983.20
WD#4 FUND "WD"	1,299.80		1,299.80
SP FIRE PROT "SF"	30,753.20		30,753.20
SD#2 FUND "SA"	1,058.48		1,058.48
TRUST/AGCY FUND "T"	1,661.58		1,661.58
SP REFUSE FUND "SR"	27,539.15		27,539.15
ST LIGHTING FUND "SL"	7,088.00		7,088.00
TOTAL	111,686.77		111,686.77

UPON ROLL CALL VOTE THE FOREGOING WAS UNANIMOUSLY ADOPTED.

Supervisor Smith welcomed the Students from Alden Central School.

THERE WAS NO BUSINESS FROM THE FLOOR

COMMUNICATIONS

Councilwoman Riddoch reported on a letter she received from Mr & Mrs. Rebman at the last Board Meeting; received a request from Alden Central School to use the R.O. Smith Park – to be on the next Work Session; received a call from a resident questioning the blue cane shaped pipes on Sandridge –she spoke with the ECWA and was told that they are air relief valves.

Councilman Weber received a letter from Wende Correctional Facility re a drainage problem on Wende Road; received a letter from a resident on Wende re the letter received from the Wende Correctional Facility.

Attorney Strong received a phone call from Gary Wagner re the Two Rod Road cleanup –wants someone to tell him what needs to be done; National Grid gave the name of their

contact person re the release of the Escrow money; and she received a letter from the Teamster re Holiday Pay.

Councilwoman Cooke reported she answered the article re the Disaster Program – requested this be placed on the Work Session

Supervisor Smith reported the following: received a letter from the Erie County Dept of Environment and Planning re the CDBG for Bonnie Lake project – this was not recommended for inclusion; copy of Village Board Minutes from Dec. 21st; Minutes of the Town Planning Board from Dec 12th; copy of Agenda for the Planning Board Meeting of Jan 9th; letter from Lovell with list of claims over \$250; the December report from Rural Metro; Certificate of Insurance naming Town of Alden as an additional insured for the Winter Fest which will be Feb 9th and Feb 10th.

NEW BUSINESS

Councilman Snyder moved and Councilwoman Cooke seconded the Motion to renew the HOP for Nancy Goergen/850 W. Alaura Dr. Unanimously carried.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE WHO MOVED ITS ADOPTION SECONDED BY COUNCILMAN WEBER TO WIT;

RESOLVED, that Randy Crist be and hereby is appointed Constable for the Alden Town Court for the year 2007 at a rate of \$10.85 per hour, and that Jerry Warner is appointed as Alternate Patrolman.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN RIDDOCH WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN WEBER TO WIT;

WHEREAS, Dean W. Adamski has filed an Application for a Home Occupation Permit to sell sporting goods (including firearms) from his residence at 12120 Westwood Road;

WHEREAS, the Town of Alden Planning Board has reviewed the Application and recommended the approval of the Application to the Alden Town Board;

WHEREAS, the Town Board, pursuant to Section 20-64 (C) of the Alden Town Code is required to call a public hearing on the application,

NOW, THEREFORE, BE IT RESOLVED:

1. That a Public Hearing on the Home Occupation Permit Application for Dean W. Adamski be held by the Alden Town Board at the Alden Town Hall, 3311 Wende Road, Alden, New York on February 5, 2007 at 7:40 P.M.. Local Time;
2. That the necessary Notice of Public Hearing, as required by Section 20-64 (C) of the Alden Town Code be published in the Alden Advertiser, the official newspaper of the Town of Alden, and be posted on the Town Bulletin Board, and mailed to the adjacent property owners, which Notice shall be in the form attached hereto and made a part hereof; and
3. This Resolution shall take effect immediately

The adoption of the foregoing resolution was duly put to a vote on January 16, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN WEBER WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN RIDDOCH TO WIT;

WHEREAS, Stephanie Pautler has filed an Application for a Home Occupation Permit to commence rendering chiropractic services from her parent's residence at 12775 North Road;

WHEREAS, the Town of Alden Planning Board has reviewed the Application and recommended the approval of the Application to the Alden Town Board;

WHEREAS, the Town Board, pursuant to Section 2064 (C) of the Alden Town Code is required to call a public hearing on the Application,

NOW, THEREFORE, BE IT RESOLVED:

1. That a Public Hearing on the Home Occupation Permit Application for Stephanie Pautler be held by the Alden Town Board at the Alden Town Hall, 3311 Wende Road, Alden, New York on February 5, 2007 at 7:35 P.M. Local Time;
2. That the necessary Notice of Public Hearing, as required by Section 20-64 (C) of the Alden Town Code be published in the Alden Advertiser, the official newspaper of the Town of Alden, and be posted on the Town Bulletin Board, and mailed to the adjacent property owners, which Notice shall be in the form attached hereto and made a part hereof; and
3. This Resolution shall take immediately.

The adoption of the foregoing resolution was duly put to a vote on January 16, 2007 and was unanimously adopted.

Supervisor Smith moved and Councilman Snyder seconded the Motion to renew the Haulers Permit/Waste Management. Unanimously carried.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SNYDER WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN WEBER TO WIT;

RESOLVED, that William P. Sivecz, 898 West Alaura Drive, Alden, NY 14004 is appointed sole Assessor for a six (6) year term beginning January 1, 2007 through December 31, 2012 at a salary set forth in the Schedule of Salaries for year 2007. Salaries after year 2007 shall be determined with the Town's Annual Budgets thereafter.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN RIDDOCH TO WIT;

WHEREAS, the Town of Alden Clerk's and Supervisor's Offices have advised the Town Board that their Offices are in need of a new accounting (general ledger and accounts payable) software, which can and will be purchased pursuant to the Office of Governmental Services New York State Contract;

WHEREAS, KVS Information Systems, Inc. has Contract Number PT 57801 with the Office of Governmental Services;

WHEREAS, the accounting software program package offered by KVS Information Systems Inc. is unique, offering features that other packages do not offer, and best fits the needs of the Town of Alden;

WHEREAS, by purchasing from the Office of Governmental Services New York State Contract the Town of Alden Procurement Policy & Procedure Guidelines and the General Municipal Law have been followed;

WHEREAS, the Town Board after full and careful review and consideration of the request finds said purchase in the public interest;

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Town Board approves the purchase of new accounting (including general ledger and accounts payable) software from KVS Information Systems, Inc. to wit;

- Application Software License Fee: \$5,880.00 and annual support \$1,600.00
- System Software License Fee: \$750.00 and annual support \$150.00
- Implementation Support \$3,120.00 and annual support \$200.00; and
- Conversion Services: \$2,900.00; all for up to five (5) users

For a total cost of \$14,600.00 (\$12,650.00 for software, implementation and conversion and \$1,950.00 for the first year of support)

2. It is acknowledged that the proposed Agreement with KVS is for a five (5) year term and that the cost of support for years two through five will be at an additional charge to the Town of Alden. These charges will be based upon the amount of support used by the Town of Alden in year one of the Agreement.

3. That the Supervisor of the Town Alden is authorized to sign the Application Software License Agreement and the Software Subscription Service Agreement with KVS Information systems, Inc. to effectuate this purchase.

4. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on January 16, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SNYDER TO WIT;

WHEREAS, the Town of Alden, at no expense to the Town, has received from NYSEG a gas powered emergency generator.

WHEREAS, the Alden Hook & Ladder Fire Company, Inc. has expressed to the Town that the Fire Company would like to use the generator to power the traffic signal at the intersection of Sandridge Road and Broadway in the event of a power outage.

WHEREAS, the Alden Town Board after due deliberation and careful consideration believes that the best use, for the benefit of the citizens of Alden and for the general public safety, of the generator is to power the traffic signal at the intersection of Sandridge Road and Broadway.

WHEREAS, the Alden Town Board after due deliberation and careful consideration believes that the Alden Hook & Ladder Fire company, Inc. is the organization best suited to install, use, and maintain the generator at said intersection.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Town Supervisor is hereby authorized to sign a Lease Agreement (in the form attached hereto) with the Alden Hook & Ladder Fire company, Inc. in regard to the installation, use and maintenance of the generator for the traffic signal at the intersection of Sandridge Road and Broadway.

2. This Resolution shall take effect immediately.

The above Resolution was duly put to roll call vote on January 16, 2007 and was unanimously adopted.

Councilwoman Riddoch moved and Councilman Weber seconded the Motion to allow Alden Winterfest Committee to use Town of Alden Memorial Park and Community Center on 2/9/097 and 2/10/07. Unanimously carried

Supervisor Smith moved and Councilman Snyder seconded the Motion to approve the Monthly Budget Transfers. Unanimously carried.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN WEBER WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN RIDDOCH TO WIT;

WHEREAS, the Town of Alden seeks grant monies from the New York State Education Department State Archives Local Government Records Management Improvement Fund to enhance the Towns website and;

WHEREAS, Improvements to the Towns website will include the availability of forms for downloading and a searchable archive of Town Board Minutes;

NOW, THEREFORE BE IT

RESOLVED, THAT Grantmakers Advantage, Inc. the Town's grant consultants, be authorized and directed to complete the necessary application, forms, etc. to be submitted to the New York State Education Department State Archives for the purpose of securing this grant and

BE IT FURTHER RESOLVED, that the Supervisor and Town Clerk be and hereby are authorized and directed to execute all document pertaining to the application and acquisition of said funding.

The foregoing Resolution was duly put to a vote on roll call and was unanimously adopted

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN RIDDOCH WHO MOVED ITS ADOPTION SECONDED BY COUNCILMAN WEBER TO WIT:

WHEREAS, the Town of Alden seeks grant monies from the New York State Education Department State Archives Local Government Records Management Improvement Fund to improve access to Building Department and Assessment Department records,

NOW, THEREFORE BE IT

RESOLVED, that Grantmakers Advantage, Inc. the Town's grant consultants, be authorized and directed to complete the necessary application, forms, etc. to be submitted to the New York State Education Department State Archives for the purpose of securing this grant, and

BE IT FURTHER RESOLVED, that the Supervisor and Town Clerk be and hereby are authorized and directed to execute all documents pertaining to the application and acquisition of said funding.

The foregoing Resolution was duly put to a vote on roll call and was unanimously adopted.

Councilman Snyder moved and Councilwoman Riddoch seconded the Motion to enter into an Executive Session at 7:55 PM to discuss a Personnel Matter. Unanimously carried.

Councilwoman Riddoch moved and Councilman Snyder seconded the Motion to re-enter the Regular Meeting at 8:35 PM (No ACTION WAS TAKEN) unanimously carried.

THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR SMITH WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SNYDER TO WIT:

WHEREAS, the Town Board of the Town of Alden (the "Town") has received information indicating that Town Employee Frank A. Trybuskiewicz ("Employee") has violated the Town Code of the town of Alden and therefore not properly performed the duties of his role as Building Inspector and Code Enforcement Officer, and

WHEREAS, Civil Service Law section 75 requires that in certain circumstances a municipality is required to conduct a hearing prior to taking disciplinary action against certain protected classes of employees, and

WHEREAS, due to such civil service status, it would appear that the Employee is entitled to the protection of Civil Service Law section 75, and

NOW, THEREFORE, BE IT RESOLVED THAT;

1. The following charges are hereby preferred against the Employee:

CHARGE 1 – INCOMPETENCE AND MISCONDUCT FOR VIOLATING SECTION 7-3 I (4) (a) OF THE Alden Town Code

Specification 1: Section 11 A-4 of the Alden Town code states that the Building Inspector of the town of Alden is designated as the Fire Inspector and is to administer and enforce the New York State Fire Prevention Code (hereinafter "State Code") within the Town of Alden

Specification 2: Section 11 A-9 of the Alden Town Code states that the Fire Inspector shall conduct inspections for compliance with the provisions of the State Code.

Specification 3: Section 7-3 I (4) (a) of the Alden Town code states that all multiple dwellings located in the Town of Alden shall be inspected for compliance with the State Code at least every eighteen (18) months

Specification 4: The records maintained in the Town of Alden Building Department do not show that the Employee never inspected any of the multiple dwellings located in the Town of Alden.

Therefore, the first charge against the Employee is incompetence and misconduct for his failure to complete fire inspection as required Section 7-31 I (4) (b) of the Alden Town Code

CHARGE II – incompetence and misconduct for violating Section 7-3 I (4) (a) of the Alden Town Code

Specification 1: Section 11A-4 of the Alden Town Code states that the Building Inspector of the town of Alden is designated as the Fire Inspector and is to administer and enforce the New York State Fire Prevention Code (hereinafter "State Code") within the Town of Alden.

Specification 2: Section 11A-9 of the Alden Town Code states that the Fire Inspector shall conduct inspections for compliance with the provisions of the State Code.

Specification 3: Section 7-3I (4) (b) of the Alden Town Code states that all other buildings (except one and two family dwellings) must be inspected for compliance with the State Code at least every twelve (12) months. During 2006 and 2005, there were approximately seventy (70) businesses/commercially used buildings (those not one family, two family, or multiple dwellings) located in the Town of Alden.

Specification 4: The Employee's 2006 annual report (dated January 2, 2007), filed and signed by the Employee states that he conducted only three (3) fire inspections

in 2006. This means that approximately sixty-seven (67) businesses/commercially used buildings in the Town of Alden were not inspected as required by the Alden Town Code.

Specification 5: The Employee's 2005 annual report (dated January 3, 2006) filed and signed by the Employee states that he conducted one (1) fire inspection in 2005. This means that approximately sixty-nine (69) businesses/commercially used buildings in the Town of Alden were not inspected as required by the Alden Town Code.

Therefore, the second charge against the Employee is incompetence and misconduct, by failing to perform fire inspections, as required by Section 7-3 I (4) (b) of the Alden Town Code.

CHARGE III – INCOMPETENCE AND MISCONDUCT FOR PREMATURELY ISSUING A BUILDING PERMIT AT 11555 BROADWAY

Specification 1: The Town Board on September 6, 2005, gave contingent site plan approval to the Broadway project. The authorizing resolution clearly states that five (5) conditions that must be met prior to the issuance of a Building Permit.

Specification 2: On May 1, 2006, the Employee issued the Building Permit without verifying that the five (5) conditions had been met. To date, these conditions have not been met.

Therefore, the third charge against the Employee is for incompetence and misconduct relating to the Employee's premature issuance of a building permit at 11555 Broadway.

CHARGE IV – incompetence and misconduct for prematurely issuing a building permit and Certificate of Occupancy at 1331 Two Rod Road

Specification 1: The Town Board gave conditional site plan approval to the Two Rod Road project on March 20, 2006 (clarifying a March 6, 2006, conditional site plan approval)

Specification 2: The Building Permit was issued by the Employee on January 23, 2006, before the applicant sought site plan approval, in violation of Article XII of the Alden Town Code.

Specification 3: Town Board's approval of the Two Rod Road project states that a Certificate of Occupancy shall not be issued until five (5) conditions are met and the final site plan is approved by the Town Engineer.

Specification 4: to date, the five (5) conditions have not been met and the Town Engineer is awaiting the submission of the final site plan for his approval; yet the Employee issued the Certificate of Occupancy on October 3, 2006.

Therefore, the fourth charge against the Employee is for incompetence and misconduct relating to his premature issuance of a Building Permit and Certificate of Occupancy at 1331 Two Rod Road.

CHARGE V – Misconduct for violating the Town of Alden Ethics Code

Specification 1: Sections 10-4 and 10-5B states that no Town Employee shall engage in any business, transaction or professional activity which is in substantial conflict with the proper discharge of his/her duties.

Specification 2: Through his d/b/a Poplar Associated Contractors, the Employee has been hiring himself out for construction projects in the Town of Alden.

Specification 3: It is unethical for a Building Inspector to work construction in a municipality where he/she is authorized to issue building permits, inspect construction work and issue certificates of compliance or occupancy.

Therefore, the fifth charge against the Employee is for misconduct for his violation of the Town of Alden Ethics Code.

2. The Employee may make and file his answer in writing to these charges. Said answer should reach the office of the Town Attorney (Jennifer L. Strong, 13166 Main Street, Alden, New York 14004) no later than January 22, 2007.

3. The Employee is entitled to be represented at such hearing by an attorney to present such witnesses and other proof as he may have in his defense against these charges. This public disciplinary hearing to hear the above charges, as required by Section 75 of the Civil Service Law, shall be held on January 29, 2007 at 7:00 PM at the Alden Town Hall, 3311 Wende Road, Alden, New York 14004. This public hearing will be conducted by the Alden Town Board who is hereby authorized to conduct said hearing.

4. If the Employee is found guilty of any of the above charges, the penalty or punishment imposed upon him may consist of any of the following: dismissal from the service of the Town, demotion in grade and title, suspension without pay for a period not exceeding two months, a fine not to exceed \$100, or reprimand.

5. The Town Attorney has communicated these charges in writing to the Employee as well as his rights pursuant to Civil Service Law section 75.

6. This Resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on January 16, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR SMITH WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SNYDER TO WIT:

WHEREAS, the Alden Town Board would like to contract with Joseph Czechowski to provide, on a temporary basis, Fire Inspection Services for the Town of Alden;

WHEREAS, Joseph Czechowski is trained and certified to serve as a temporary fire inspector for the Town of Alden;

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Town Board approves the signing a Contract to hire Joseph Czechowski as the Temporary Fire Inspector as per the attached Employment Contract.

2. The Supervisor is authorized to sign the Employment contract to effectuate this resolution.

3. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on January 16, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR SMITH WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SNYDER TO WIT:

WHEREAS, the Alden Town Board would like to contract with Donnel Folger to provide, on a temporary basis, Code Enforcement Services for the town of Alden;

WHEREAS, Donnel Folger is trained and certified to serve as a temporary Code Enforcement Officer for the Town of Alden;

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Town Board approves the signing of a Contract to hire Donnel Folger as the Temporary Code Enforcement Officer as per the attached Employment Contract.
2. The Supervisor is authorized to sign the Employment Contract to effectuate this resolution.
3. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on January 16, 2007 and was unanimously adopted.

THERE WAS NO UNFINISHED & TABLED BUSINESS

REPORTS FROM STANDING COMMITTEES AND PERSONNEL

COUNCILWOMAN RIDDOCH reported that she has asked Erie County Sheriff to alert Patrolmen that the speeding continues on Peters Corner Road; she visited Legislator Konst's office re our Road Resolution on Crittenden/North and Crittenden/County Line – they are **trying** to get some answers.

COUNCILMAN WEBER reported on a Meeting on January 24th in Ellicottville re WD#5.

TOWN ATTORNEY STRONG reported she is working with Engineer Metzger on the Storm water regulations.

COUNCILMAN SNYDER reported on a leak in the Boiler Room that he had fixed; also the NEST Meeting he attended last week.

COUNCILWOMAN COOKE reported on the Work that has been done in the Community Center – wanted to Thank Engineer Metzger for the work.

PLANNING BOARD MEMBER FLEMING reported on their Meeting. Mr. Russo gave his reasons for the change in lot size so the Planning Board can do nothing more until they get further drawings; as for the Champness SubDivision – they also need further drawings.

ENGINEER METZGER was in agreement with Mr. Fleming re the Champness SubDivision. He stated that the Planning Board could not take any action on the Russo Rezone since they still have not received the revised application. The Supervisor had a question re Mr. Russo's statement that if the Town was unwilling to rezone the property that he would build along the twenty-one (21) acres already zoned commercial. The information that has come back indicates that Walmart needs only twenty (20) acres for their store and another five (5) acres for the septic system. The Supervisor wanted to know if the Septic System could be put in an area that is not zone commercial – The Attorney answered that it has to be in a commercial zone. Councilwoman Cooke questioned the size of the Store – Councilman Weber stated that it is to be a 155,000 square foot store with Groceries.

Supervisor Smith adjourned the Meeting at 8:55 PM with a minutes silence in Memory of Jeanne Lawrence.

DOROTHY L. BYCINA
TOWN CLERK