

MEETING NO. 15
REGULAR NO. 15

REGULAR BOARD MEETING

AUG. 3, 2009
7:00 P.M.

The Regular Meeting of the Alden Town Board was held in the Town Hall at 3311 Wende Road on Monday August 3, 2009 at 7:00 PM. 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 Smith, Supervisor
Mary Riddoch, Councilwoman
William Weber, Councilman
Arlene Cooke, Councilwoman
RECORDING SECRETARY: Dorothy L. Bycina, Town Clerk
OTHERS PRESENT: Jennifer Strong, Town Attorney
Michael Metzger, Town Engineer
Colleen Pautler, Planning Board
Lenny Weglarski, DCO
ABSENT: Ronald Snyder, Councilman

Councilwoman Cooke moved and Councilman Weber seconded the Motion to approve the Minutes & Synopsis of the Regular Meeting of July 20, 2009. Unanimously carried.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE AND SECONDED BY COUNCILWOMAN RIDDOCH TO WIT;

ACCOUNT	ABST #1	ABST #2	TOTAL
GENERAL FUND "A"		10,685.58	30,362.78
HGHWY FUND "DA/DB"		2,018.88	11,393.10
PARTTOWN FUND "B"		1,276.27	4,200.43
WD#2 FUND "WB"			375.20
WD#3 FUND "WC"			2,063.60
WD#4 FIMD "WD"		18,378.75	19,678.55
SP FIRE PROT "SF"		25,000.00	39,129.75
SD#2 FUND "SA"		9,666.71	12,299.73
TRUST & AGCY FUND "T"		2,824.52	12,339.74
SP REFUSE FUND "SR"		1,215.00	12,481.70
ST LIGHTING FUND "SL"			6,196.53
PERIWINKLE LGT DIST "SL1"			31.08
GRANTS			3,925.75
TOTAL	(82,944.73) (Paid 7/20/09)	71,533.21	154,477.94

UPON ROLL CALL VOTE THE FOREGOING WAS UNANIMOUSLY ADOPTED.

BUSINESS FROM THE FLOOR

Robert Wohlgemuth/11849 Genesee St questioned again the Local Law #2/09 – re the Planning Board. He was disappointed that the Law did not include his request for Attendance and Training. Supervisor Smith stated that since he has become Supervisor the Members are allowed one excused absence and as for the Training this is included in the State Law.

Keith Stone/Crittenden Rd had a question on the Referendum Vote Date – wanted to know if the Town could challenge the Date – Attorney Strong said the information we had was from the Board of Elections – to challenge the date would cost more then to have the Election other then on Primary Day.

Robert Wohlgemuth/11849 Genesee St stated that the Date of the Vote should be based on the cost and the voter turnout. He said the Law states that the Town sets the date – the Primary would get the Voters out and would be least costly for the town. He feels the

Town should select September 15 and submit this to the Board of Elections. If the Board of Elections in writing responds back that they will not fulfill this date then the Town has time to set a later date. He feels that this is being costly to the town and it will suppress the Voters. The Supervisor concluded by stating that if the Petitions had been filed at a date in a time frame it could have been included in the November Election and there would be no question of suppression and there would have been a better turn out.

Erie Chaffee/Cayuga Creek Rd questioned the reason for being able to Vote on General Election and not on Primary Election. Attorney Strong stated that Ralph Mohr advised that not all Parties can vote on Primary (only Parties that are running a Candidate).

Winnie Fisher//Two Rod Road questioned if there were any Democrat Candidates in the Primary – there are no Local Candidates but there may be some for the County.

Robert Wohlgenuth/11849 Genesee St asked for a formal request to set the date as September 15th if the Commission of Board of Election rejects this date there is still time to set the date as September 29th. Supervisor Smith replied “So Noted”

COMMUNICATIONS

Councilwoman Riddoch received a notice form the DOT that Speed Limit Signs could go up on Uebelhoer Road by the Town.

Councilman Weber received calls from residents on County Roads re Mowing, a drainage complaint and two complaints from residents re salt taste in their wells that are close to the Road.

Attorney Strong has sent out the final list for the Reinhardt Road closing; Time Warner will be setting up a Meeting and spoke with a Teamster Representative to start setting up Negotiations.

Councilwoman Cooke received a call from a Lady re drainage. Approached a person who was in our Town without a Peddlers Permit.

Supervisor Smith reported the following: letter from NYSDOT pre 2008-2009 Local Government Efficiency Program; Fire/EMS Dept Monthly Report for June from Scott Sitzman, Fire Chief/EMS Director; the approved Village Board Minutes of June 25th; Monthly Response Compliance for June 2009 from Rural Metro; the approved Village Board Minutes for July 9th; letter from NYSDOT re Request for the release of the sate preferential acquisition rights NYS DOT-CSX; letter from a resident at 534 Cayuga Creek Road re request for Preventative Safety Transportation Control; the July Monthly report from the Town Clerk; the July Monthly report from the Building Inspector; copy of the August 11, 2009 Planning Board Agenda; letter from State of New York (Real Property Services) stating our State equalization rate as 51.00.

NEW BUSINESS

Councilwoman Riddoch moved and Councilman Weber seconded the Motion to refer the HOP Application for Edward Sisson/11323 Broadway to the Planning Board for their recommendation. Unanimously carried.

Councilman Weber moved and Councilwoman Riddoch seconded the Motion to renew the HOP for Dennis Davern/35 Exchange St. Unanimously carried.

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

WHEREAS, the Councilwoman Cooke has advised the Town Board that the Senior Nutritional Program is in need of a Temporary Site Director for the months of August, 2009 and September 2009, due to a leave of absence for the current Site Director;

WHEREAS, Councilwoman Cooke has recommended that Donna Zinter be appointed as the Temporary Nutritional Program Site Director for the months of August, 2009 and September 2009;

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Town Board accepts the request for unpaid leave, due to a family medical emergency for Julia Lathrup, for the months of August, 2009 and September, 2009.
2. The Town Board approves the appointment of Donna Zinter, as the Temporary Nutritional Program Site Director for the months of August, 2009 and September 2009, at an hourly rate of \$9.64 hour, not to exceed nine (9) hours in any week and without any benefits.
3. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll all vote on August 3, 2009 and was unanimously adopted.

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

WHEREAS, the Town Board of the Town of Alden has fully considered the adoption of Local Law No. 2 of the Year 2009, entitled “:Local Law amending Section 20-88 of the Alden Town Code to decrease the number of members of the Town of Alden Planning Board”(the “Proposed Action”); and

WHEREAS, the Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA; and

WHEREAS, the Town Clerk provided notice to the Erie County Division of Planning on July 7, 2009, for this Proposed Action, as required under Section 239-m of the General Municipal Law and a “no recommendation” was received from the Division on July 14, 2009; and

WHEREAS, the New York State Environmental Quality Review Act requires the Town to determine the Lead Agency status and the Town Board did assume Lead Agency status on July 6, 2009; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the Code of the Town of Alden, Chapter 9D, the Town Board has prepared the Short Form Environmental Assessment form, which is now on file with the Town Board and the Town’s SEQR Intake Officer; and

WHEREAS, the Town of Alden Planning Board has reviewed the Proposed Action and on July 9, 2009, recommended to the Town Board the approval of the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS THAT:

1. The Town Board did determine that the Proposed Action is an Unlisted Action under SEQRA.
2. The Town Board did determine that it should be the Lead Agency for all environmental review of the Proposed Action.
3. The Town of Alden, as Lead Agency, hereby determined that the unlisted action described in the attached SEQR NEGATIVE DECLARATION, NOTICE OF DETERMINATION OF NON-significance, which attached notice is hereby made a part of this Resolution, will not have a significant effect on the environment and that an environmental impact statement is not required to be prepared with respect to said Proposed Action.

4. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting on August 3, 2009 and was unanimously adopted.

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

WHEREAS, a Proposed Local Law #2 of 2009 entitled “Local Law amending Section 20-88 of the Alden Town Code to decrease the number of members of the Town of Alden Planning Board” was introduced to the Alden Town Board for consideration by Councilman Snyder on June 1, 2009.

WHEREAS, the Town of Alden Planning Board reviewed the proposed Local Law and recommended to the Town Board its approval on July 9, 2009.

WHEREAS, an order was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on July 20, 2009 at 7:05 pm at the Alden Town Hall, 3311 Wende Road, Alden, New York 14004 to hear all interested parties on a proposed Local Law entitled Local Law No. 2 of the Year 2009, and

WHEREAS, notice of said public hearing was duly published in the Alden Advertiser, the official newspaper of the Town of Alden on July 9, 2009, and

WHEREAS, said public hearing was duly held on July 20, 2009 all parties in favor of the local law were heard and/or all parties opposed to the Local Law were heard; and

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Alden Town Board, as Lead Agency, that adoption of said proposed Local Law is an Unlisted Action and will not have a significant effect upon the environment, and

WHEREAS, the Erie County Division of Planning gave a “no recommendation” to the proposed Local Law on July 14, 2009, pursuant to section 239-m of the General Municipal Law, and

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on July 7, 2009, and

WHEREAS, the Alden Town Board, after due deliberation, finds it in the best interest of said Town of Alden to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS THAT;

1. The Alden Town Board hereby adopts said Local Law No. 2 of the Year 2009 entitled “Local Law amending Section 20-88 of the Alden Town Code to decrease the number of members of the Town of Alden Planning Board”, a copy of which is attached hereto and made a part of this resolution.

2. That the Alden Town Clerk enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Alden, and to give due notice of the adoption of said Local Law to the Secretary of State of New York, post the same on the Town Bulletin Board and publish the same in the Alden Advertiser.

3. This Resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll call vote at a regular meeting on August 3, 2009 and was unanimously adopted.

LOCAL LAW NO. 2 OF THE YEAR 2009

A Local Law amending Section 2000-88 of the Alden Town Code to decrease the number of members of the Town of Alden Planning Board

Be it enacted by the Town Board of the Town of Alden as follows:

SECTION 1. TITLE

This Law shall be known as Local Law No. 2 of the Year 2009, a Local Law amending Section 20-88 of the Alden Town Code to decrease the number of members of the Town of Alden Planning Board to take effect upon the expiration upon the next two expirations of terms (December 31, 2009 and December 31, 2010) of the Town of Alden Planning Board

SECTION 2. PURPOSE AND AUTHORITY

The purpose of this local law is to amend the §20-88 of the Alden Town Code to decrease the number of members of the Town of Alden Planning Board from seven (7) members to five (5) members in an effort to save taxpayer monies and to operate a cost effective Planning Board

Authority for this amendment is given under Town Law §§271 (1) and (7).

SECTION 3. AMENDMENT OF CODE

Section 20-88 of the Code of the Town of Alden as originally adopted as part of Local Law No. 1 of 1992, on July 6, 1992, be and hereby is amended by this Local Law so that §20-88 shall read in its entirety as follows:

§20-88 Planning Board

The Town of Alden Planning shall appoint a Planning Board consisting of five (5) members, said appointments to be made in the manner as prescribed by Town Law. The Planning Board shall act as an advisory board to the Town Board.

SECTION 4. SEPARABILITY

If any section, subsection phrase, sentence of other portion of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5. EFFECTIVE DATE

This local law shall be filed with the Secretary of the State of New York and shall take effect upon the expiration upon the next two expirations of terms (December 31, 2009 and December 31, 2010) of the Town of Alden Planning Board.

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

WHEREAS, the Town Justices have advised the Town Board that the Court Room is in need of a new air conditioner the estimated cost of which is under \$2,000.00;

WHEREAS, the Procurement Policy & Procedure Guidelines of the Town of Alden ("Policy") requires that all estimated purchases of \$2,000.00 require a request for a proposal and written quotes from at least two (2) vendors;

WHEREAS, said Policy has been followed and two (2) quotes have been obtained; and

WHEREAS, the Town Board after full and carefully review and consideration of the purchase request finds the purchase in the public interest.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. That the Town Board approves the purchase of one air conditioning unit and related equipment from United Refrigeration Inc. for \$1,077.17, as outlined on the attached proposal, including (1) one year warranty on parts and a 5 year warranty on the compressor as being consistent with its policies and in the interests of the residents of the Town of Alden.
2. That the Supervisor of the Town of Alden is authorized to sign and all necessary documents to effectuate this purchase; and
3. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on August 3, 2009 and was unanimously adopted.

Supervisor Smith moved and Councilwoman Cooke seconded the Motion to approve Men's Softball request to use Town Diamonds on August 8, 2009 for their Annual Scholarship Tournament, Fee waived and August 22, 2009 request to use Town Diamonds and St. John's Diamond for Softball Tournament, Fee applies. Unanimously carried.

Councilwoman Cooke moved and Councilwoman Riddoch seconded the Motion to renew the HOP for Daniel Pautler/12657 North Road. Unanimously carried.

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

RESOLUTION OF THE TOWN OF ALDEN, NEW YORK, ADOPTED AUGUST 3, 2009 PROVIDING FOR SUBMISSION OF A PROPOSITION AT A SPECIAL ELECTION TO BE HELD ON SEPTEMBER 29, 2009 TO APPROVE OR DISAPPROVE THE PETITION TO DECREASE THE NUMBER OF COUNCILMEMBERS FROM FOUR TO TWO IN THE TOWN OF ALDEN, ERIE COUNTY, NEW YORK PURSUANT TO NEW YORK STATE TOWN LAW SECTION 81 SUBMITTED TO THE ALDEN TOWN CLERK ON JULY 16, 2009.

RESOLVED BY THE TOWN BOARD OF THE TOWN OF ALDEN, IN THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

1. A Special Election shall be held on September 29, 2009 at the Alden Town Hall, 3311 Wende Road, Alden, New York at 11:00 A.M. (Prevailing Time) and the poles shall remain open until 7:00 o'clock P.M. (Prevailing Time) or as much longer as my be necessary to enable the voters then present to cast their votes.
2. The Town Clerk shall cause the Notice of such Special Election to be published at least once in the "Alden Advertiser," a newspaper having a general circulation in the Town and designated as the official newspaper of the Town, and to be posted on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, said publication and posting to be at least ten (10) days before such Special Election.
3. The Town Clerk is hereby authorized and directed to include in the Notice of Special Election, notice that the Town Board will submit at the said Special Election, a PROPOSTION TO DECREASE THE NUMBER OF COUNCILMEMBERS FROM FOUR TO TWO IN THE TOWN OF ALDEN, ERIE COUNTY, NEW YORK PURSUANT TO NEW YORK STATE TOWN LAW SECTION 81 for approval or disapproval of the Proposition hereinafter referred to in such Notice.
4. At said Special Election, the vote upon the said Proposition shall be by separate ballot on voting machines or by paper ballot, as determined by the Erie County Board of Elections and the only persons qualified to vote upon said Proposition shall be those voters registered by the Erie County Board of Elections to vote in the Town of Alden.

5. Said Notice shall be in substantially the following form:

TOWN OF ALDEN, NEWYORK
NOTICE OF SPECIAL ELECTION
ON SEPTEMBER 29, 2009

NOTICE IS HEREBY GIVEN that a Special Election will be held on September 29, 2009 in the Town of Alden, in the County of Erie, New York, at the Alden Town Hall, 3311 Wende Road, Alden, New York, and voting will be limited to those voters registered by the Erie County Board of Elections to vote in the Town of Alden and the polls shall remain open from 11:00 o'clock A.M. (Prevailing Time) to 7:00 P.M. (Prevailing Time), or for such longer period of time as may be necessary to enable the voters then present to cast their ballots.

At said Special Election the following Proposition is to be voted upon:

PROPOSITION

SHALL THE PETITION ENTITLED: "PETITION TO DECREASE THE
NUMBER OF COUNCILMEMBERS FROM FOUR TO TWO IN THE
TOWN OF ALDEN, ERIE COUNTY, NEW YORK PURSUANT TO
NEW YORK STATE TOWN LAW SECTION 81" BE APPROVED?

By Order of the Town Board of the
Town of Alden, in the County of
Erie, New York
Dated: August 3, 2009

6. Forthwith after the Special Election is held, pursuant to Section 209-e (4) (b) of the Town Law, the Town Clerk shall prepare and file a certificate stating that a special election was held pursuant to the provisions of said Section and certifying the results of the voting on the Proposition submitted at such Special Election in the office of the County Clerk of Erie County.

7. This resolution shall take effect immediately.

The adoption of the foregoing resolution was seconded by Councilman Weber and duly put to a vote on roll call and was unanimously adopted.

Councilman Weber moved and Councilwoman Riddoch seconded the Motion to renew the HOP for James Jozwiak/11090 John Court. Unanimously carried.

THERE WAS NO UNFINISHED & TABLED BUSINESS

REPORTS OF COMMITTEES, OFFICIALS AND PERSONNEL

Councilwoman Riddoch requested the Speed Study/Cayuga Creek Road be placed on the Work Session

Councilman Weber is working with Drainage on Cayuga Creek and South Lawn.

Attorney Strong requested the following to be placed on the Work Session – Reinhardt Railroad Crossing; Violence in the Work Place and the Snyder property on Cary Road.

Councilwoman Cooke requested the Ambulance Service be placed on the Work Session.

Supervisor Smith apologized for the cancellation of the Master Plan Meeting – no date has been set for another Meeting.

Supervisor Smith adjourned the Meeting at 7:35 PM with a Minute's silence in Memory of Alexander Vilagy.

DOROTHY L. BYCINA
TOWN CLERK

