

MEETING NO 20  
REGULAR NO 18

REGULAR BOARD MEETING

SEPT. 17, 2007  
7:30 P.M.

The Regular Meeting of the Alden Town Board was held in the Town Hall at 3311 Wende Road on Monday, September 17, 2007 at 7:30 PM. Supervisor Smith called the Meeting to Order. Councilwoman Riddoch 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  
RECORDING SECRETARY: Dorothy L. Bycina, Town Clerk  
OTHERS PRESENT: Jennifer Strong, Town Attorney  
Harry A. Milligan, Highway Supt  
Michael Metzger, Town Engineer  
Leonard Weglarski, Dog Control Officer

Councilman Snyder moved and Councilman Weber seconded the Motion to approve the Minutes & Synopsis of the Regular Meeting of September 4, 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"	14,202.32		14,202.32
HGHWY FUND "DA/DB"	7,189.19		7,189.19
PARTTOWN FUND "B"	8,687.79		8,687.79
WD#1 FUND "WA"	3,539.34		3,539.34
WD#2 FUND "WB"	375.20		375.20
WD#3 FUND "WC"	2,048.04		2,048.04
WD#4 FUND "WD"	1,299.80		1,299.80
SPECIAL FIRE PROTEDTION"SF"	159.18		159.18
SD#2 FUND "SA"	1,164.84		1,164.84
TRUST/AGCY FUND "T"	961.60		961.60
SP REFUSE FUND "SR"	29,929.19		29,929.19
ST LIGHTING FUND "SL"	8,444.21		8,444.21
GRANTS	2,900.00		2,900.00
TOTAL	80,900.70		80,900.70

UPON ROLL CALL VOTE THE FOREGOING WAS UNANIMOUSLY ADOPTED.

#### BUSINESS FROM THE FLOOR

Robert Wohlgemuth/11849 Genesee St presented a list of four (4) of his neighbors along with pictures who are having a drainage problem-would appreciate any help from the Town. He asked if Mr. Russo has completed and paid for another Re-Zone application; he stated that Mr. Russo is using our Town Engineer, our Town Attorney and Planning Board – he is submitting a minimal amount of paper work and not meeting requirements. He feels the time the Town is spending on this project they could be spending more time on a Master Plan to support the Zoning Map. He talked about the property surrounding his and the Zoning – he feels it is not right for people to come into our Town and do what they want – this is why we need some kind of an enforceable plan.

(Engineer Metzger stated re Russo – there is a Survey)

Supervisor Smith stated that the Russo issue is not before the Town Board and until an application is complete the Town Board has no official say. He pointed out things that are missing on the application and it is a frustration to all of us the way Russo has delayed this process. As for the Master Plan – this has been discussed – we are working with our Grant Writer and a couple of

Firms that do Planning Work to have the Master Plan redone and get the Master Plan updated. He also stated that there will be Citizen Participation in the formation of the Master Plan. Supervisor Smith said by endorsing the Master Plan we are limited – Mr. Wohlgemuth spoke of the process that needs to be followed to change the Master Plan.

Supervisor Smith advised that at the last Work Session there was a discussion re a Master Plan for Drainage – the Town has never come up with a detailed study on how to address them. He asked Councilman Weber to look at the situation behind Mr. Wohlgemuth's house. Councilman Weber has walked the property, discussed this with the Highway Supt the problem being that there is a very little pitch. The Highway Supt feels that in the Fall they will have a better view of the situation.

Town Engineer added re the Rezone that the Concept Plan seem to be in order. There are a couple of Items on the Long Environmental Assessment Form that need to be rectified; a letter has been sent to the Building Inspector; as far as the Legal Description, he has not focused on this because we are not even close to having a Public Hearing. He wants to make sure that the SEQRA Documents are in order so they can be sent out to the proper Agencies.

Supervisor Smith moved and Councilman Weber seconded the Motion to enter into the Public Hearing. Unanimously carried.

**SUPERVISOR SMITH CALLED FOR THE PUBLIC HEARING re DOGS/LOCAL LAW 1/07. THE TOWN CLERK READ THE NOTICE THAT WAS PUBLISHED IN THE ALDEN ADVERTISER.**

Councilwoman Riddoch reviewed the changes to the Local Law which included the License Fee - Pickup Fee- Penalty for Harboring an Unlicensed Dog

James Guarino/13899 North Rd question if the Law had anything to do with the State Fee.

Supervisor Smith stated that the Local Law would not affect the State Fee.

Councilwoman Riddoch added that any RENEWAL after Oct. 1<sup>st</sup> would be at the new rate.

Councilwoman Riddoch moved and Councilman Snyder seconded the Motion to close the Public Hearing at 8:00 PM

## COMMUNICATIONS

Councilwoman Riddoch reported she received a call from Marlin Cassel of TownLine re power outage in that area –she gave her a Phone Number to call and asked if she did not get any satisfaction to call her back; spoke with a Supervisor with the DOT re trimming on State Roads and if anyone has concerns to let her know; received an E-mail re licensing of Cats; received a call from Mike Hardie re the loss of Portable Toilet- after a discussion re this claim, the supervisor advised to turn in the claim.

Town Attorney Strong advised re Periwinkle that today she received partial release of Mortgage in Draft Format- met with her approval; received Drainage Easement in Bumper Zone language – comments were made and returned to their Attorney. Engineer Metzger met on Site about a week ago – talked about drainage issued – will be again this Tuesday morning. He is working with their Engineer to revise the Grading and Drainage Plan. Some physical work needs to done behind the property in Phase I. Engineer Metzger stated that until such time as a Subdivision Map is filed the Building Inspector can not issue a Building Permit because there are no legal lots – only permits can be issued for the Model Homes. Attorney Strong stated she is working with the USDA re changing the present Water Application and re WD#5 the Intermunicipal Agreement with Marilla they are still waiting for a Time Line from us.

Councilwoman Cooke spoke with Sue Barnes regarding using the Sewer District money for Disaster; there is money coming out for the Cert Program and I told her we plan on doing something with Lancaster; also she received a letter from Michele Hoffman re the Step Stool for the Van – requested this be placed on the Work Session.

Supervisor Smith received the Village Board Minutes; received the Monthly report from Rural Metro; received the Fire/EMS Dept monthly Report for August from the Village.

## NEW BUSINESS

Councilwoman Riddoch moved and Councilman Snyder seconded the Motion to grant Alden Art Club permission to use the Community Center (2008) on the 1st Tuesday of each month (except July & Aug) from 7:00-10:00 PM. Unanimously carried.

Councilman Weber moved and Councilwoman Riddoch seconded the Motion to grant Town Justice Larry LaDuca permission to attend the NYS Magistrates Conference and Certification Seminar in Tarrytown, NY (Oct 1<sup>st</sup>-3<sup>rd</sup>, 2007) unanimously carried.

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

WHEREAS, Councilwoman Cooke has advised the Town Board that the Senior Nutritional Program is in need of a Site Director;

WHEREAS, Councilwoman Cooke has recommended that Julia Lathrup be appointed as the Nutritional Program Site Director

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

L. The Town Board approves the appointment of Julia Lathrup as the Nutritional program Site Director, at an hourly rate of \$9.09/hour, but not to exceed nine (9) hours in any week and without any benefits.

2. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll call vote on September 17, 2007 and was unanimously adopted.

Councilwoman Cooke moved and Councilman Snyder seconded the Motion to grant Erie County Dept of Environment & Planning permission to use the Town Hall for a Radon Measurement & Mitigation Course from 8:30 AM – 4:30 PM the week of November 12, 2007. Unanimously carried.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN RIDDOCH 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. 1 of the Year 2007, entitled “Amendment of the Dogs Law for the Town of Alden”, which will amend the Dogs Law to add a penalty for harboring unlicensed dogs; to increase the local dog license fee; and to increase the impoundment fee provisions codified as Chapter 9 of the Code of the Town of Alden. (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 August 7, 2007, 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 August 13, 2007; and

WHEREAS, the New York State Environmental Quality Review Act required the Town to determine the Lead Agency status and the Town Board did assume Lead Agency status on August 6, 2007; 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 September 11, 2007, recommended to the Town Board the approval of the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

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 determines 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 roll call vote at a regular meeting of the Town Board of the Town of Alden on September 17, 2007 and was unanimously adopted.

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

WHEREAS, RESOLUTIONS WERE DULY ADOPTED BY THE Alden Town Board for a public hearing to be held by said Town Board on August 21, 2007 and on September 17, 2007 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 1 of the Year 2007 "Amendment to the Dogs Law of the Town of Alden:", and

WHEREAS, notices of said public hearing were duly advertised in the Alden Advertiser, the official newspaper of the Town of Alden, and

WHEREAS, said public hearing was duly held on August 21, 2007 and on September 17, 2007 and OR all persons with comments and questions 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 August 13, 2007, pursuant to section 239-m of the General Municipal Law, and

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on August 8, 2007, and

WHEREAS, the Planning Board recommended the approval of the Local Law on September 11, 2007.

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

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,

1. That the Alden Town Board hereby adopts said Local Law No. 1 of the Year 2007 entitled "Amendment to the Dogs Law of the Town of Alden, 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 vote on September 17, 2007 and was unanimously adopted.

#### **“SECTION 1. TITLE**

This Law shall be known as Local Law No. 1 of the Year 2007 entitled “Amendment of the Dogs Law for the Town of Alden”.

#### **SECTION 2, PURPOSE**

The purpose of this local law is to add a penalty for harboring unlicensed dogs; to increase the local dog license fee; and to increase the impoundment fee provisions of the Dogs Law codified as Chapter 9 of the Code of the Town of Alden.

#### **SECTION 3, AMENDMENT OF CODE**

The Code of the Town of Alden is amended b this Local Law No. 1 of the Year 2007 as follows:

1. Chapter 9 of the Code of the Town of Alden as originally adopted on September 28, 1979 as Local Law 3-1979, and amended on: January 19, 1981 by Local Law 1-1981; May 16, 19988 – by Local Law -1-1988; September 7, by Local Law 1-1993, January 5, 1998; and on November 6, 2000 by Local Law 5-2000 is hereby amended as follows:

Section 9-5A(1) is replaced by the following language to read:

9-5A(1) First Pickkup: \$25.00

Section 905A(2) is replaced by the following language to read:

9-5A(2) Second Pickup: \$50.00

Section 9-5A(3) is replaced by the following language to read:

9-5A(3) Third Pickup \$75.00

Section 9-5A(4) is replaced by the following language to read:

9-5A(4) \$75.00 per time anytime after the third pickup within one (1) year.

Section 6 shall be amended to add the following language:

D. The per dog penalty for the harboring of an unlicensed dog shall be minimum of \$25.00 and a maximum of \$500.00 per summons issued for an unlicensed dog.

Section 9-8 is replaced by the following language to read:

#### **9-8 License Fee**

Pursuant to § 110(4) of the New York Agriculture and Markets Law of the State of New York, an annual dog license fee of five dollars and fifty cents (\$5.50) for each dog license issued by the Town of Alden, New York, under §1-9(1) of the New York Agriculture and Markets Law will be added to the fees established by §110(1) of the New York Agriculture and Markets Law. This annual dog license fee shall be charged by the Town of Alden for all licenses becoming effective October 1, 2007.

#### **SECTION 4. SEVERABILITY**

If any section, subsection phrase, sentence or 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 take effect immediately upon filing with the Secretary of State of New York.”

Councilman Snyder moved and Councilwoman Cooke seconded the Motion to authorize the Supervisor to make the Monthly Budget Transfers. Unanimously carried.

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

WHEREAS,

The Town of Alden Highway Superintendent has advised the Town Board that the Highway Department would like to be prepared to hire contractors to assist with clean-up efforts in the event of a future storm or disaster in the Town of Alden;

WHEREAS, the Procurement Policy & Procedure Guidelines of the Town of Alden requires that all estimated purchases over \$20,000.00 shall be formally bid pursuant to General Municipal Law section 1-3.

WHEREAS, the Town Board after full and careful review and consideration of the request finds said request to receive bids for preparation for a future storm or disaster in the public interest; NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Town Board hereby authorizes the Town of Alden Town Clerk to advertise for bids as outlined in the attached Instructions to Bidders;
2. The Town Board hereby authorizes the Town Clerk to publish Notice in the Alden Advertiser, Said Notice must be published more than five (5) days prior to Monday, October 19, 2007 and must state the time when and place where the sealed bids will be publically opened and read by the Town Clerk.
3. The Town Board hereby authorizes the Town Clerk to receive sealed bids, until 2:00 PM Prevailing time on Friday, October 19, 2007. All bids must contain the Non-collusive Bidding Certification.
4. This resolution shall take effect immediately. The foregoing Resolution was duly put to a vote on September 17, 2007 and was unanimously adopted.

Councilwoman Riddoch moved and Councilman Weber seconded the Motion to grant Alden Central School use of the Robert O. Smith Park Soccer Field on requested dates. Unanimously carried.

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

WHEREAS, the Town Board of the Town of Alden is considering the adoption of “Local Law No. 2 of the Year 2007, entitled “Windmill Law of the Town of Alden”, (the “Proposed Action”);

WHEREAS, the Town Board of the Town of Alden feels that the Proposed Action is an Unlisted Action under SEQRA;

WHEREAS, the Town Board of the Town of Alden believes that the Town of Alden is; the agency primarily responsible for undertaking such decisions; is the agency with the broadest governmental powers for investigating the impact of the Proposed Action; and has the greatest capacity for providing the most thorough environmental assessment of the Proposed Action; and is the most local agent with permitting authority; and

WHERE the Town Clerk is hereby directed to send notice to the Erie County Division of Planning as required under Section 239-m of the General Municipal Law and to the neighboring municipalities.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS;

1. The Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA
2. The Town Board has determined that it should be the Lead Agency for all environmental review of the Proposed Action
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote on September 17, 2007 and was unanimously adopted.

(Eric Chaffee/Cayuga Creek Rd requested to be heard re the Windmill Law. He requested a digital file on the Windmill law and was denied by the Attorney. Attorney Strong stated she does not send out her Attorney work in the Digital Format. Robert Wohlgemuth suggested that this be done on Adobe. The Attorney will have her Secretary work on this next week.)

#### REPORTS FROM STANDING COMMITTEES AND PERSONNEL

Councilwoman Riddoch has made arrangements to have the Bathrooms open for the rest of the Soccer Games. She has made arrangements with Mike Boling to unlock and lock the Bathrooms. She also wanted to Thank Attorney Strong for all her work on the Dog Law.

Councilman Weber reported on the 4<sup>th</sup> Meeting of the Excel Committee; he is working on the Drainage Problem on Fairview Dr.; talked to numerous Households re the proposed WD#5 and their need to register complaints with the Erie County Health Dept re possible Aid; he attended the Planning Board Meeting on Sept. 11<sup>th</sup>; he also spoke to Engineer Metzger re Mrs. Szymanski's drainage problem. There will be a Meeting on Sept 26<sup>th</sup> re the Water District in Painted Post.

Attorney Strong requested that the Windmill Law and the Storm Water Regulations be placed on the Work Session.

Councilman Snyder reported on the Building Inspectors Meeting he attended last week; received an E-mail on the Generator –will go over this with Mike Metzger. Waiting for prices on SD#2 – may be getting some Grant Money; next Thursday he will be attending an Association of Towns Meeting in Clarence.

Supervisor Smith remembered John Scherlein, who recently passed away, for his achievements while serving many years as Councilman and Supervisor for the Town of Alden.

Supervisor Smith adjourned the Meeting at 8:45 PM with a Minute's silence in Memory of Cheri Paulin and John Scherlein (Former Town Supervisor)

DOROTHY L. BYCINA  
TOWN CLERK