

Councilwoman Riddoch moved and Councilman Snyder seconded the Motion to adjourn from the regular meeting and enter into the 7:05 P.M. Public Hearing re Local Law #3/2010 “Notice of Defects”. Unanimously Carried.

The First Deputy Town Clerk read the notice of Public Hearing that was published in the Alden Advertiser re Local Law #3/2010 “Notice of Defects”.

Attorney Strong gave an explanation of the new law.

The Supervisor opened the Floor for Public Comments.

PUBLIC COMMENTS:

There was no public comment

AFTER ALL THOSE WISHING TO BE HEARD WERE HEARD, SUPERVISOR SMITH ASKED FOR A MOTION TO ADJOURN AND MOVE INTO THE 7:10 P.M. PUBLIC HEARING RE LOCAL LAW #4/2010 “ COURT APPEARANCES”.

Councilman Snyder moved and Councilwoman Riddoch seconded the Motion to adjourn and enter into the 7:10. Public Hearing re Local Law #4/2010 “Court Appearances”.

The First Deputy Town Clerk read the notice of Public Hearing that was published in the Alden Advertiser re Local Law #4/2010 “Court Appearances”.

Attorney Strong gave an explanation of the new law.

The Supervisor opened the Floor for Public Comments.

PUBLIC COMMENTS:

There was no public comment.

AFTER ALL THOSE WISHING TO BE HEARD WERE HEARD, SUPERVISOR SMITH ASKED FOR A MOTION TO ADJOURN AND MOVE INTO THE 7:15 P.M. PUBLIC HEARING RE LOCAL LAW #5/2010 “AMENDMENT TO THE DOGS LAW OF THE CODE OF THE TOWN OF ALDEN”.

Councilwoman Riddoch moved and Councilwoman Cooke seconded the Motion to adjourn and enter into the 7:15 P.M. Public Hearing re Local Law #5/2010 “Amendment to the Dogs Law of the Code of the Town of Alden”.

The First Deputy Town Clerk read the notice of Public Hearing that was published in the Alden Advertiser re Local Law #5/2010 “Amendment to the Dogs Law of the Code of the Town of Alden”.

Attorney Strong gave an explanation of the law.

The Supervisor opened the Floor for Public Comments.

PUBLIC COMMENTS:

Keith Stone, Crittenden Rd., questioned the wording of the law concerning the treatment of animals, questioned the surcharge that the State will charge, wanted to know who takes care of that fund? It will be sent to the State from the Clerk’s office. Mr. Stone had various questions about the wording in the law, it was explained to him that this law is set up with parameters to follow; Mr. Stone felt it is unconstitutional and should not be adopted.

Ron Gardner, Genesee St. asked if farmers would be exempt from this new law, as far as the number of dogs allowed? Attorney Strong said there is no exemptions for agricultural operations.

Ron Rebmann, Broadway questioned about dogs at large, what about hunting dogs? They are exempt from the “dogs at large” as long as they are under control of their owners and have permission of the landowner to be on the property.

AFTER ALL THOSE WISHING TO BE HEARD WERE HEARD, SUPERVISOR SMITH ASKED FOR A MOTION TO MOVE INTO THE 7:20 P.M. PUBLIC HEARING RE LOCAL LAW #6/2010 “KENNEL AMENDMENT TO THE ZONING LAW OF THE TOWN OF ALDEN”.

Councilwoman Riddoch moved and Councilwoman Cooke seconded the Motion to enter into the 7:20 P.M. Public Hearing re Local Law #6/2010 “Kennel Amendment to the Zoning Law of the Town of Alden”.

The First Deputy Town Clerk read the notice of Public Hearing that was published in the Alden Advertiser re Local Law #6/2010 “Kennel Amendment to the Zoning Law of the Town of Alden”.

Attorney Strong gave an explanation of the law.

The Supervisor opened the Floor for Public Comments.

PUBLIC COMMENTS:

There were no public comments.

AFTER ALL THOSE WISHING TO BE HEARD WERE HEARD, AT 7:35 P.M. SUPERVISOR SMITH ASKED FOR A MOTION TO ADJOURN FROM THE PUBLIC HEARINGS AND ENTER BACK INTO THE REGULAR MEETING.

At 7:35 P.M. Councilwoman Riddoch moved and Councilman Snyder seconded the motion to enter back into the regular meeting. Unanimously Carried.

COMMUNICATIONS

Councilwoman Riddoch received an endorsement from Tompkins Insurance removing the 1995 Ford from our policy and a return of \$81.00. She will also be removing the 1999 Dodge.

Attorney Strong received a proposed draft for the drainage easement on the Nawrocki Subdivision; which she sent over to Mike Metzger, would like this on the Work Session, also working with the Village Attorney on updating the Sullivan Rd. maintenance agreement.

Councilwoman Cooke wanted to know where we stand now with Henskee Rd., she previously notified the Fire Companies and cancelled and then notified them again. She would like an update. Councilwoman Cooke felt we should write a letter to Time Warner in protest of them dropping channel 6 (Fox). Supervisor Smith said they are negotiating contracts that will end in December.

Supervisor Smith received notice from Time Warner that they are going to have a price adjustment. Basic will go up from \$10.50 to \$12.00, standard service \$60.50 to \$63.95, received from the Village of Alden their November 9, 2010 meeting minutes, received from the Town of Alden Planning Board their agenda for Tuesday, December 14th, approved minutes from their Oct. 12th meeting, and their unapproved Planning Board minutes from their November 9th meeting.

NEW BUSINESS

Councilwoman Riddoch moved and Councilwoman Cooke seconded the motion to approve the renewal of a Home Occupation Permit for Joseph Bove, 11607 Genesee St./Upholstery. Unanimously Carried.

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

WHEREAS, the Town Board of the Town of Alden has fully considered the adoption of "Local Law No. 3 of the Year 2010, entitled "Notice of Defects" (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 September 28, 2010, 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 October 5, 2010; 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 October 4, 2010; 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 November 9, 2010, 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 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 a roll call vote at a regular meeting on December 6, 2010, and was unanimously adopted.

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

WHEREAS, the Town Board of the Town of Alden has fully considered the adoption of “Local Law No. 4 of the Year 2010, entitled “Court Appearances” (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 September 28, 2010, 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 October 5, 2010; 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 October 4, 2010; 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 October 12, 2010, 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 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 a roll call vote at a regular meeting on December 6, 2010, 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 Board of the Town of Alden has fully considered the adoption of “Local Law No. 5 of the Year 2010, entitled “Amendment to the Dogs Law 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 November 5, 2010, 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 November 12, 2010; 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 November 1, 2010; 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 October 12, 2010, 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 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 a roll call vote at a regular meeting on December 6, 2010, and was unanimously adopted.

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

WHEREAS, the Town Board of the Town of Alden has fully considered the adoption of Local Law No. 6 of the Year 2010, entitled “Kennel Amendment to the Zoning Law 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 November 8, 2010, 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 November 12, 2010; 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 November 15, 2010; 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 November 9, 2010, 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 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 a roll call vote at a regular meeting on December 6, 2010, and was unanimously adopted.

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

WHEREAS, the Town of Alden Parks Supervisor has advised the Town Board that the Parks Department is in need of new pick-up truck with plow for use at the Alden Town Parks and in the Town of Alden;

WHEREAS, the Procurement Policy & Procedure Guidelines of the Town of Alden require that all estimated purchases over \$20,000.00 shall be formally bid pursuant to General Municipal Law section 103;

WHEREAS, said Policy and Law have been followed and bids have been properly received; and

WHEREAS, sealed bids were authorized by the Alden Town Board on November 1, 2010 and bid solicitations with specifications were published on November 4, 2010;

WHEREAS, five (5) sealed bids were received by the Town of Alden and opened by the Deputy Town Clerk on November 19, 2010;

WHEREAS, the highest bidder is Basil Ford at \$36,168.00 (this bid meets the specifications);

WHEREAS, the second highest bidder is Dave Smith Ford at \$28,594.00 (this bid meets the specifications);

WHEREAS, the third highest bidder is Vision Ford at \$27,798.00 (this bid meets the specifications);

WHEREAS, the fourth highest bidder is West Herr Ford at \$26,378.00 (this bid does NOT meet the specifications);

WHEREAS, the lowest responsible bidder is DeLacy Ford at \$26,998.00; and

WHEREAS, The Town Board after full and careful review and consideration of the request finds that it is in the public interest to authorize the purchase of the Parks Department pick-up truck with plow; and

WHEREAS, the Town Board after full and careful review and consideration of the request finds said request to receive bids for a new Parks Department truck in the public interest.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS, THAT:

1. The Town Board approves the purchase of one new 2011 Ford Pick-Up Truck with Plow from DeLacy Ford, the lowest responsible bidder, for \$26,998 (including delivery) 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 any and all necessary documents to effectuate this purchase and to title the vehicle; 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 6, 2010, and was unanimously adopted.

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

WHEREAS, the Town Board of the Town of Alden is considering an application by Samuel P. Guida, Jr. for the subdivision of two (2) lots. The entire parcel currently consists of approximately 96.7 acres on North Road in the Town of Alden, further identified as SBL #

108.00-2-12.111. The first proposed lot (“Parcel A”) would be a 350’ x 1100’ vacant parcel on North Road and the second proposed lot (“Parcel B”) would be the remaining approximately 89 acre vacant parcel (The “Proposed Action”);

WHEREAS, the Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA but has determined that it is in the public interest to conduct a coordinated review;

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

WHEREAS, the Town Building Inspector is directed to provide notice to the Erie County Division of Planning for this Proposed Action, as required under Section 239-m of the General Municipal Law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS THAT:

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, and as such will notify other involved agencies of its desire to become the Lead Agency .
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board of the Town of Alden on December 6, 2010, and was unanimously adopted.

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

WHEREAS, the Alden Town Board has noticed the need to increase, due to the general increase in the cost of doing business and to add fees due to the changes in the State law dealing with the issuance of dog licenses, the various fees charged by the Town of Alden for services provided by the Town;

WHEREAS, the Alden Town Board is authorized under State Law and under the Alden Town Code to set said fees upon resolution duly adopted by the Town Board;

WHEREAS, the proposed updated fee amounts and are fair and reasonable; and

WHEREAS, each fee charged by the Town of Alden is reasonably related to the service performed by the Town of Alden for which each fee is charged;

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Town Board hereby adopts the attached TOWN OF ALDEN FEES and the attached PERMIT FEE SCHEDULE as the official fees charged by the Town of Alden, effective as of this date.

2. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll call vote at a regular meeting on December 6, 2010, and was unanimously adopted.

ATTACHMENT:

FEE SCHEDULE FOR THE TOWN OF ALDEN (12.6.2010)

Building Department:

Building permit 6 month renewal (10% of original fee or \$50 whichever is greater)	\$50.00 min.
New residential construction	\$.60 S/F of living space and \$.15 S/F attached garage
Residential addition - up to 400 S/F over 400 S/F will be calculated as new construction	\$.50 S/F
Residential accessory structures (garages, barns, etc.)	\$.15 S/F
Residential remodeling (involving exposure of framing, structural repairs or work, decks)	\$.20 S/F
Swimming Pools {in-ground}	\$150.00
Swimming Pools {above ground}	\$ 50.00
Other residential construction (sheds, generators, roofs, windows, siding, fences, etc)	\$ 50.00
Building without a permit FEE	DOUBLE
Certificate of Occupancy/Compliance (houses & commercial)	\$25
Driveway permit (without culvert)	\$150.00 + cost of pipe
Driveway repair/replacement work (existing driveways) actual cost of materials	
Demolition permits	\$50
Shed demolition	\$20
Fill/pond permit (+ engineering fee if necessary for site plan review)	\$50
Fire Inspections/operating permits up to 15,000 S/F	\$30
up to 30,000 S/F	\$60
up to 45,000 S/F	\$90
up to 60,000 S/F	\$120
over 60,000S/F	\$150
Flood Zone development permit (+ engineering fee if necessary for site plan review)	\$50
Fuel tank installation/removal (including 500 gal. Propane)	\$50
Junk yard annual fire inspection	\$200
Mining (sand banks, gravel pits, pit excavation) base fee	\$1,500
Each cubic yard or part thereof above 20,000 cubic yards	
\$.50/Cu/Yd or \$2,000	
New commercial construction, commercial improvement projects, and any new mechanicals	
\$0 - 250,000	5%
\$250,001 – 500,000	4%
\$500,001 – 750,000	3%
\$750,001 and above	2%
*Under \$1,000,000:	fees are to be paid to the Town prior to start
*Over \$1,000,000:	50% of fee paid to the Town prior to start; when 50% of work is completed, 25% of balance due; balance due prior to C/O
Re-Zoning (10 acres or less)	\$500 + Eng. Fee
Re-Zoning (more than 10 acres)	\$500 + \$40/acre + Eng. Fee
Sign permit (fixed)	\$50
Sign permit (temporary)	\$20/month
Planning Board Sign Review	\$100
Commercial Site Plan Review (+ Town Engineer fees, <i>estimated engineer fee to be placed in escrow account</i>)	
up to and including 1 acre disturbed	\$250
over 1 acre – up to 5 acres disturbed	\$500
over 5 acres – up to 10 acres disturbed	\$1,000
over 10 acres	\$1,000 + \$25 per acre
Special Use Permit application fee (+ public notice fee)	\$150

Special Use Permit Renewal		\$50
Kenel Special Use Permit application fee (+ public notice fee)		\$150
Kenel Special Use Permit Renewal		\$50
Storm Water Pollution Prevention Permit (+ Engineer fees)		\$250
Subdivision (minor, one lot) Application fee		\$125
Subdivision (major) Application fee		\$250
Subdivision without permit		NORMAL FEE +
\$500 fine		
Telecommunication Towers		
	up to 150 feet	\$3,000
	each foot above 150	\$50/foot
	new tower permit fee	\$500
	co-location	\$100
Windmill Fees		
Residential		\$150
Commercial	up to 150 feet	\$3,000
	each foot above 150	\$50/foot
Topsoil/excavation	base fee: up to 500 cubic yards	\$500
	Each 100 CU/YD or part thereof above 500CU/YD	\$50/100CU/YD
Tax Receipts		\$2.00
Zoning Books		\$20
Variance Request to Zoning Board	(plus cost of publications and mailings)	\$200
Town of Alden Code Book		current fee of general code publisher

Town Clerk's Office

	<u>Town Share</u>	<u>State Share</u>	<u>Total</u>
Bingo	\$7.50	\$11.25	\$18.75
Dog license			
Spayed/Neutered	\$ 9.00	\$1.00 surcharge	\$ 10.00
Un-spayed/Un-neutered	\$15.00	\$3.00 surcharge	\$18.00
Reissue Lost Dog Tags	\$ 3.00		\$ 3.00
Enumeration Fee for Dogs w/o license	\$25.00		\$25.00
Games of chance	\$10.00	\$15.00	\$25.00
Genealogy Search Fee	\$10.00 plus \$1.00 for each photocopy		
Marriage	\$17.50	\$22.50	\$40.00
Home occupation			
Permits	\$50.00 (+ public notice fee)		\$50.00
Variances	\$200.00 (+ public notice fee)		
	\$200.00 (+ public notice fee)		
Junkyard license	\$250.00		\$250.00
Solid Waste Hauling fee	\$25.00		\$25.00
Peddlers permit	\$25.00		\$25.00
Street directory	\$ 3.00		\$ 3.00
Town maps	\$ 3.00		\$ 3.00
Certified copies	\$10.00		\$10.00
Subdivision books	\$ 7.00		\$ 7.00
Photocopies (non genealogy)	\$.25 per page		\$.25 per page
Recycling bins	\$ 6.00		\$ 6.00
Shelters	\$20.00/\$35.00		\$20.00/\$35.00
Baseball/Softball/Hardball Diamond			
Tournament Fee (waived for Not-for-profit tournaments)	\$150.00 per day		\$150.00 per day
Zoning maps	\$ 2.00		\$2.00
Landfill Management Permits	to be determined on an individual basis by resolution of the Town Board		
Game Rooms	to be determined on an individual basis by resolution of the Town Board		

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

WHEREAS, a Proposed Local Law # 3 of 2010 entitled “Notice of Defects” was introduced to the Alden Town Board for consideration by Councilperson Weber on September 20, 2010;

WHEREAS, the Town of Alden Planning Board reviewed the proposed Local Law and recommended to the Town Board its approval on November 9, 2010;

WHEREAS, an order was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on December 6, 2010, 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 No. 3 of the Year 2010;

WHEREAS, notice of said public hearing was duly published in the Alden Advertiser, the official newspaper of the Town of Alden on November 18, 2010;

WHEREAS, said public hearing was duly held on December 6, 2010, and *no parties in attendance had any comments in favor of or opposed to the proposed Local Law;*

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;

WHEREAS, the Erie County Division of Planning gave a “no recommendation” to the proposed Local Law on October 5, 2010, pursuant to section 239-m of the General Municipal Law;

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on October 6, 2010; and

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 THAT:

1. The Alden Town Board hereby rescinds the current Chapter 19A of the Alden Town Code and adopts said Local Law No. 3 of the Year 2010 entitled “Notice of Defects”, which reads as follows:

Notice of Defects Chapter 19A

§19A-1 Highways, bridges and culverts.

- A. No civil action shall be maintained against the Town of Alden for damages or injuries to person or property sustained by reason of any highway, bridge or culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition is actually given to the Clerk of the Town of Alden or the Town Superintendent of Highways and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of or, in the absence of such notice, unless such defective, unsafe, dangerous or obstructed condition existed for so long a period that the same should have been discovered and remedied in the exercise of reasonable care and diligence; but no such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge or culvert unless written notice thereof, specifying the particular place, was actually given to the Clerk of the Town of Alden or the Town Superintendent of Highways and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.
- B. The Town Superintendent of Highways shall transmit in writing to the Clerk of

the Town of Alden within 10 days after receipt thereof all written notices received by him pursuant to this article.

- C. The Clerk of the Town of Alden shall keep an index record, in a separate book, of all written notices which he shall receive, pursuant to this article, of the existence of a defective, unsafe, dangerous or obstructed condition in or upon or of an accumulation of ice or snow upon any Town highway, bridge or culvert, which shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of each notice shall be preserved for a period of five years after the date it is received.

§19A-2 Other property.

- A. No civil action shall be maintained against the Town of Alden for damages or injuries to person or property sustained by reason of **any property of the Town of Alden**, other than as provided in §19A-1 of this article, being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition, specifying the particular place, was actually given to the Clerk of the Town of Alden or the Town Superintendent of Highways and there was a failure or neglect within a reasonable time after the giving of such notice to repair the defect, danger or obstruction complained of; but no action shall be maintained for danger or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any property unless written notice thereof, specifying the particular place, was actually given to the Clerk of the Town of Alden or the Town Superintendent of Highways and there was a failure or neglect to cause such snow or ice to be removed or to make the place reasonably safe within a reasonable time after receipt of such notice; provided, however, that notwithstanding the provisions of any law defining real property owned by tax title or owned for the purpose of reimbursement of assistance granted, as held and used for a public purpose, and notwithstanding any such notice given, the Town of Alden shall not be liable by reason of such property being defective, out of repair, unsafe or dangerous unless the Town is in the actual physical possession, control and operation thereof as owner or deriving a direct income there from and with no greater liability than that imposed upon the individual owner of property.
- B. The Town Superintendent of Highways shall transmit in writing to the Clerk of the Town of Alden within 10 days after the receipt thereof all written notices received by him pursuant to this section of this article.
- C. The Clerk of the Town of Alden shall keep an index record, in a separate book, of all written notices which he shall receive, pursuant to this section of this article, of the existence of a defective, unsafe, dangerous or obstructed condition in or upon or of an accumulation of ice or snow upon any property of the Town other than as provided under §19A-1 of this article, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of each notice shall be preserved for a period of five years after the date it is received.
- D. For the purpose of this section of this article, property of the Town of Alden shall include but not be limited to the interior and exterior of any building owned, operated or controlled by the Town of Alden; parklands; historic sites; recreation areas; scenic sites; overlooks; garages; storage areas; any road, bridge or culvert, other than a highway, bridge or culvert provided for in §19A-1.

§19A-3 Claims and actions.

- A. Any claim, including a claim specified in § 65-a of the Town Law of the State of New York, which may be made against the Town of Alden for damages for wrong or injury to person or property or for the death of a person shall be made and served in compliance with § 50-e of the General Municipal Law.
- B. Every action upon such claim shall be commenced pursuant to the provisions of § 50-i of the General Municipal Law.

- C. This article shall not apply to actions upon claims for damage or compensation for property taken by condemnation for any public purpose.

§19A-4 Additional duties of Town Clerk.

The Clerk of the Town of Alden shall transmit a copy of every notice received by him pursuant to this article to the Town Attorney or to the Attorney for the Town and Town Superintendent of Highways, if the Town Superintendent of Highways was not the source of such notice.

§19A-5 When Effective.

This local law shall take effect immediately upon its filing in the Office of Secretary of State.

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 December 6, 2010, and was unanimously adopted.

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

WHEREAS, a Proposed Local Law # 4 of 2010 entitled "Court Appearances" was introduced to the Alden Town Board for consideration by Councilperson Snyder on September 20, 2010;

WHEREAS, the Town of Alden Planning Board reviewed the proposed Local Law and recommended to the Town Board its approval on November 9, 2010;

WHEREAS, an order was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on December 6, 2010, at 7:10 pm at the Alden Town Hall, 3311 Wende Road, Alden, New York 14004 to hear all interested parties on a proposed Local Law No. 4 of the Year 2010;

WHEREAS, notice of said public hearing was duly published in the Alden Advertiser, the official newspaper of the Town of Alden on November 18, 2010;

WHEREAS, said public hearing was duly held on December 6, 2010, and *no parties in attendance had any comments in favor of or opposed to the proposed Local Law;*

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;

WHEREAS, the Erie County Division of Planning gave a "no recommendation" to the proposed Local Law on October 5, 2010, pursuant to section 239-m of the General Municipal Law;

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on October 6, 2010; and

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 THAT:

1. The Alden Town Board adopts said Local Law No. 4 of the Year 2010 entitled "Court Appearances", which reads as follows:

COURT APPEARANCES

ARTICLE I Compulsory Attendance

Purpose.

The purpose of this article is to require that those persons properly served in proceedings requiring their compulsory attendance in Town Court appear as directed. This article is intended to apply to those persons required to appear in Town Court pursuant to all accusatory instruments as set forth under §100.05 of the Criminal Procedure Law of the State of New York, namely, an information; or a simplified information; or a prosecutors information; or a misdemeanor complaint; or a felony complaint and to those persons required to appear in Town Court pursuant to all accusatory instruments set forth in the Alden Town Code and New York State Building and Maintenance Codes, as adopted by the Town of Alden; and is intended to be a separate and distinct violation under the Town Code of the Town of Alden.

Effective Date.

Commencing with the effective date of this article, it shall hereafter be unlawful to fail to appear in the Alden Town Court if properly served in any proceeding commenced with any of the accusatory instruments set forth above.

Penalties for offense.

A.

Any person, persons, firm, association, partnership or corporation violating the provisions of this article shall be guilty of a violation under the Town Code of the Town of Alden and shall upon conviction thereof, be subject to a fine of not less than \$50, nor more than \$250.

B.

Any person, persons, firm, association, partnership or corporation, violating the provisions of this article for a second time, within a period of two years, shall be subject to a fine of not less than \$100, nor more than \$250.

Enforcement.

The enforcement of this article will be by the Code Enforcement Officer or Clerk of the Court of the Town of Alden in addition to any duly authorized law enforcement officer of the State of New York.

Defenses.

A.

It shall be a defense to any proceeding brought pursuant to this article that the person, persons, firm, association, partnership or corporation accused with violating this article were not personally served with the accusatory instrument and did not have notice of the proceeding.

B.

By appearing either in person or through counsel, whether by personal attendance or telephone communication to the court, such defense shall be waived.

C.

The Town Court shall be entitled to waive any penalty and/or dismiss any proceeding under this article if the Court should determine there was a reasonable basis for such failure to appear or that it is in the interest of justice based upon the circumstances to dismiss.

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 December 6, 2010, and was unanimously adopted.

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

WHEREAS, a Proposed Local Law # 5 of 2010 entitled "Amendment to the Dogs Law of the Code of the Town of Alden" was introduced to the Alden Town Board for consideration by Councilperson Cooke on October 4, 2010;

WHEREAS, the Town of Alden Planning Board reviewed the proposed Local Law and recommended to the Town Board its approval on October 12, 2010;

WHEREAS, an order was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on December 6, 2010, at 7:15 pm at the Alden Town Hall, 3311 Wende Road, Alden, New York 14004 to hear all interested parties on a proposed Local Law No. 5 of the Year 2010;

WHEREAS, notice of said public hearing was duly published in the Alden Advertiser, the official newspaper of the Town of Alden on November 18, 2010;

WHEREAS, said public hearing was duly held on December 6, 2010, and *all parties in favor of the local law were heard and/or all parties opposed to the Local Law were heard;*

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;

WHEREAS, the Erie County Division of Planning gave a "no recommendation" to the proposed Local Law on November 12, 2010, pursuant to section 239-m of the General Municipal Law;

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on November 5, 2010; and

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 THAT:

1. The Alden Town Board adopts said Local Law No. 5 of the Year 2010 entitled "Amendment to the Dogs Law of the code of the Town of Alden", which reads as follows:

SECTION 1. TITLE

This Law shall be known as Local Law No. 5 of the Year 2010 entitled "Amendment to the Dogs Law of the Code of the Town of Alden".

SECTION 2. PURPOSE

The purpose of this local law is to amend the provisions of Chapter 9 of the Code of the

Town of Alden entitled Dogs to allow the Town of Alden to better enforce the requirements of the Agriculture and Markets Law of the State of New York and the Code of the Town of Alden governing dogs including updating licensing fees and dog control provisions and by clarifying restrictions and penalties for violations. The purpose of this local law is also to amend the Alden Town Code to limit the number of dogs that are permitted to reside permanently on a premises without a Kennel Special Use Permit and to limit the total number of dogs allowed on a premises. This local law will regulate the number of dogs permitted and create minimum standards for the care and housing of dogs to ensure that they are humanely treated and do not negatively impact the surrounding property owners and provide for periodic inspections to ensure that standards are maintained.

SECTION 3. AMENDMENT OF THE DOGS LAW OF THE CODE OF THE TOWN OF ALDEN

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, 1988 by Local Law 1-1988; September 7, 1993 by Local Law 1-1993, January 5, 1998; November 6, 2000 by Local Law 5-2000; September 17, 2007 by Local Law 1-2007; December 15, 2008 by Local Law # 5-2008 is hereby amended to read as follows:

ARTICLE I Dog Licensing

§ 9-1. Licensing of Dogs:

- A. *All dogs in the Town of Alden must be licensed with the Town Clerk by the age of four (4) months and are required to present a current Certificate of Rabies at the time of licensing or the renewal of an existing license.*
- B. *All dog licenses will be paid for a period of one year and will expire at the end of the month one year from the date of issue. Dog licenses are not transferable.*
- C. *Fees for Licensing of Dogs: The fee for a spayed or neutered dog will be \$10.00 (which included the assessment of a \$1.00 surcharge for the purpose of carrying out animal population control) and the fee for an unspayed or unneutered dog will be \$18.00, (which included the assessment of a \$3.00 surcharge for the purpose of carrying out animal population control) with such fees being reviewed by the Town Board periodically and may be changed by a resolution of the Town Board, if deemed necessary.*
- D. *Grace Period Any dog harbored within the Town of Alden which is owned by a resident of New York City and licensed by the City of New York, or which is owned by a non-resident of New York State and licensed by a jurisdiction outside the State of New York, shall for a period of thirty (30) days be exempt from the provisions of this Section.*
- E. *Enumeration fee: When the Town Board determines the need for a dog enumeration, a fee as set by resolution of the Alden Town Board will be assessed to all dogs found unlicensed.*
- F. *Purebred License: The Town of Alden will not be issuing Purebred Licenses. All dogs will be licensed individually as per fee system stated above.*
- G. *Service Dogs: The Town of Alden will require a license for every guide dog, service dog, hearing dog, therapy dog and detection dog; however the fee for this license shall be waived. All applicants for licenses for a guide dog, service dog, hearing dog, therapy dog and detection dog shall be required to present a current Certificate of Rabies at the time of licensing or the renewal of an existing license*

- H. *The Town of Alden does not allow the licensing of dogs by a shelter. The shelter MUST send the adoptive dog owners to the Town Clerk of the Town or City in which the dog will be harbored for licensing OR to the Town Clerk of the Town of Alden, where the Shelter is located for the purchase of the license for adoption purposes.*
- I. *All dog licenses may be purchased by visiting the Town offices or by regular mail. If licensing or renewing a license by mail, the appropriate fee must accompany the forms. There will be NO refund of fees.*
- J. *All fees will be used in funding the administration of the Dogs Law of the Town of Alden.*

ARTICLE II Dog Control

§ 9-2. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

AT LARGE - Any dog that is on property open to the public or is on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be at large if it is a guide dog actually leading a blind person, a police work dog in use for police work, or a dog accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on unposted land or posted land with the permission of the owner of the land or leashed as prescribed by § 9-3.

HARBORER-the person who provides sustenance and shelter for any dog whether or not such person shall be the owner.

KENNEL – The keeping, breeding or boarding of more than two dogs over the age of six months old shall constitute a “Kennel.”

OWNER- the person who is recorded in the Town Clerk's office as the applicant for the license for a dog, if such animal shall be licensed, or the person who provides sustenance and shelter for such animal.

§9-3. Restrictions.

A. No person, firm or corporation owning, keeping, harboring or having the care, custody or control of any dog or dogs shall allow or permit any such dog or dogs to be off the premises of such person, firm or corporation (at large) and in the Town of Alden unless restrained by a chain or leash not exceeding six feet in length. Whenever any dog is found off the premises of the person, firm or corporation owning, keeping, harboring or having the care, custody or control of such dog not controlled or restrained as above provided, it shall be presumed that such person, firm or corporation permitted or allowed such dog or dogs to be off the premises in violation of this section. This provision shall not apply to a hunting dog in company with a duly licensed hunter who is able to and does control the animal provided the hunting does not take place on any property which is a public park or school property, a guide dog, service dog or working dog who is exempted from licensing fees pursuant to Agriculture and Markets Law § 110, when actually engaged in such service activity.

B. No owner or harboring of a dog shall permit or allow such dog to engage in habitual loud howling or barking or to conduct itself in such manner as to habitually annoy any person other than its owner or harboring. Specifically, no dog shall be allowed to bark or howl for a period in excess of 15 consecutive minutes when said barking is audible from beyond the property line of the owner's residence.

C. No person shall deliberately, carelessly or negligently provoke a dog into barking, thereby disturbing the peace and quiet of a neighborhood by annoying the residents thereof.

D. No person, firm or corporation shall own, keep, harbor or have the care, custody or control of any dog not licensed as required by Article 7 of the Agriculture and Markets Law of the State of New York.

E. No owner or harborer of a dog shall permit or allow such dog to cause damage or destruction to property or to urinate or defecate or to commit any other nuisance upon the premises of a person other than his/her own.

F. No owner or harborer of a dog shall allow such dog to habitually chase motor vehicles or bicycles or other conveyances, including pedestrians and joggers.

G. No owner or harborer of a dog shall fail to have such dog receive the mandatory rabies vaccinations as required pursuant to the provisions of Article 21, Title IV, of the Public Health Law.

H. No owner or harborer of a dog shall permit more than two or more dogs six months or older to reside on any property unless the property has obtained a Kennel Special Use Permit. If at the time of the effective date of this local law, an owner or harborer when such owner or harborer: (1) does not breed and/or sell dogs and (2) maintains his/her dogs as family pets; has more than two dogs over six months of age residing on the premises, the dogs then residing there shall be permitted to reside there for as long as they live but cannot be replaced without the owner or harborer first obtaining a kennel special use permit if their replacement would result in there being more than two dogs over six months of age residing on the premises.

All owners or harborers who breed dogs and/or sell dogs, shall be subject to this local law upon the effective date of this local law and are required to make immediate application for and to obtain a Kennel Special Use Permit.

§ 9-4. Interference with enforcement officials.

No person shall hinder, resist or oppose any properly designated official or representative of the Town in the performance of his/her duties under this article.

§ 9-5. Duties of Dog Control Officer; impoundment.

A. It shall be the duty of the Dog Control Officer or any other Town agent or employee designated by the Town Board hereafter to seize or take control of any dog found running at large or unrestrained contrary to the provisions of § 9-3A and to impound said dog in a suitable place.

B. In the use of any weapon or device for dog control, including, but not limited to, netting, trapping, snaring, tranquilization or firearm use (by a licensed official), the Dog Control Officer shall employ the most humane method possible under the circumstances.

C. The Dog Control Officer, seizing and impounding any dog, shall make a complete registry and file the same in the office of the Town Clerk, entering therein the breed, color, sex and any distinguishing marks of such dog and whether licensed. If licensed, he shall enter the license number and the name and address of the owner.

§ 9-6. Effect of ownership by minor.

In the event that the owner or harborer shall be a minor under the age of 16 years, then the head of the household in which such minor resides shall be deemed to have the care, custody and control of said dog and shall be responsible for any acts in violation of this article.

§ 9-7. Enforcement; right of entry.

A. This article shall be enforced by the Dog Control Officer and any other Town agent or employee designated by the Town Board hereafter. The Dog Control Officer shall have all the powers of a peace officer in enforcing the provisions of this article and the provisions of the Agriculture and Markets Law.

B. The Dog Control Officer and any other Town agent or employee designated by the Town Board hereafter are authorized to sign and issue any complaint, information, affidavit or notice in connection with the prosecution of any violation of this article.

C. The Dog Control Officer and any other Town agent or employee designated by the Town Board hereafter are authorized to enter upon any lands upon which a dog is kept or harbored and to require the display by the person owning or having charge or control of such dog of the license tag for such dog.

D. If an issued summons is disregarded by the person receiving it, the Town Justice may permit the filing of an information and issue a warrant for the arrest of such person.

§ 9-8. Penalties for offenses.

A. Any person, firm or corporation violating any provision of this article shall be guilty of an offense punishable as set forth in § 119 of the Agriculture and Markets Law except that in the case of a violation of § 9-3G. such person shall also be in violation of Article 21, Title IV of the Public Health Law and the penalties as provided for therein.

B. Any person, firm or corporation taking part in or assisting in any violation of this article shall be subject to the penalties herein.

C. Each day that a violation of this article is committed or is permitted to exist shall constitute a separate offense.

D. Penalties shall be in accordance with the Agriculture and Markets Law and the following maximums: \$250 and/or 15 days' imprisonment for each offense. Any person taking part or assisting in any violation of this article shall also be subject to the penalties herein. The prosecution of a violation of § 9-3 shall be in lieu of a civil action pursuant to the New York State Agriculture and Markets Law § 119.2

E. If a dog seized under the provisions of § 9-3 is not redeemed within 5 business days, the owner shall forfeit all title to such dog and the dog shall be sent to the SPCA or destroyed by the peace officer or representative of the Commissioner of Agriculture and Markets, and pay any established fines and/or fees. Anyone who picks up an at-large dog in the Town of Alden must notify the Dog Control Officer of Alden (or his/her assistant) and surrender the dog upon request, before removing the dog from the Town, subject to fine. Fees include veterinarian bills, license fees and maintenance fees of the dog and shall be as set forth in Agriculture and Markets Law § 118, Subdivision 4. There shall be a fee for the euthanasia and disposal of a dog, which shall be in an amount equal to the cost incurred by the Dog Control Officer in providing this service.

F. Optional Civil Penalties for Failure to License a Dog

If Dog Control Officer of the Town discovers that an owner or harborer has an unlicensed dog, the Dog Control Officer shall have to option to proceed as a civil matter and shall notify the owner or harborer that he or she is in violation of the New York State Agriculture and Markets Law § 119.1. (a) and the owner or harborer shall have 30 days to obtain a license. At the time that the normal license fee is paid such owner or harborer shall pay an additional civil penalty of \$25 for not properly licensing the dog except that where the owner or harborer has violated this section within the preceding five years the civil penalty shall be \$50 and where the owner or harborer has committed two or more of such violations within the preceding five years the civil penalty shall be \$100. If the owner or harborer shall not obtain a license within said 30 day period, the Dog Control Officer shall commence a criminal proceeding pursuant to the penal law and the owner or harborer shall be subjected to the criminal penalties in addition to the civil penalty as set forth herein.

Any civil fees collected under this section shall be maintained in an account by the Town of Alden to be used to fund future Dog Enumerations performed by the Town of Alden.

§ 9-9. Liability of Town officials.

No officer, agent or employee of the Town of Alden shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her duties under this article. Any suit brought against any officer, agent or employee of the Town of Alden as the result of any act required or permitted in the discharge of his/her duties under this article shall be defended by the Town Attorney until the final determination of the proceedings thereon.

Article III Kennel Special Use Permit

9-10. A. Kennels are permitted only in Rural Agricultural Districts upon the issuance of a Kennel Special Use Permit in accordance with the Kennel Special Use Permit provisions herein.

B. In any application for a Kennel Special Use Permit to operate a kennel in the Town of Alden, the applicant must provide a site plan which site plan must include the location of the kennel, including distances from adjoining properties, screening that is being provided to limit the ability of dogs to view others in order to limit the amount of barking, the design for such kennel identifying the specific areas and size of areas provided for each dog to be housed in the kennel, the types and/or size of dogs to be housed at the kennel to ensure that the shelter is suitable to the breed and age of dog to be housed there, such area to meet minimal space requirements as set forth by the Agriculture and Markets Law of the State of New York so as to allow the dog to move about in a natural manner, light, are and temperature sufficient to protect the dog.

C. All pens and runways for the dogs must be a least 100 feet from any adjoining lot line and a minimum of 150 feet from any street line.

D. Kennels must be maintained to ensure that the interior spaces are structurally sound and in good repair to keep the dogs contained therein from injury. There must be no rust, jagged edges or sharp points.

E. Kennels must provide sufficient shelter to allow dogs to be sheltered from inclement weather. A Kennel can not harbor more than 25 dogs at any one time.

F. Kennels must separate dogs where appropriate including separation of incompatible dogs, female "in heat" and male dogs, vicious and other dogs, adult dogs and puppies (other than the mother with nursing puppies) and dogs with contagious disease and healthy dogs.

G. Kennels shall be periodically inspected by the Dog Control Officer at least once a year or at such other shorter period as determined to be appropriate by the Dog Control Officer to ensure that the dogs are properly cared for. The Dog Control Officer shall inspect the kennel for the purpose of determining amount other things:

1. That the dogs are being properly fed at suitable intervals, with wholesome food appropriate for the breed and age of the dog and sufficient to maintain a reasonable level of nutrition in each dog. The food shall be served in a suitable receptacle, dish or container that has been physically cleaned.

2. That the dogs are being properly watered with a constant supply of clean, fresh, potable water in a sanitary manner.

3. That the kennel is properly being maintained as clean, structurally sound and in good repair with no rust, jagged edges or sharp points.

4. That all dogs over four months of age are properly licensed and have received the require rabies shots.

5. That all dogs are provided the opportunity for daily exercise.

H. The Kennel Special Use Permit for operating a kennel may be revoked if it is determined by the Dog Control Officer that the operator of the kennel is not operating the kennel in the manner required by this article.

1. If the Dog Control Officer has determined that the kennel is not being operated in accordance with the requirements of this article, the Dog Control Officer shall notify the operator of the kennel as to any deficiencies that he has found in the operation of the kennel.

2. Upon receipt of the notice from the Dog Control Officer of the alleged deficiencies, except in the case of failure to provide food and water, the operator shall have thirty (30) days

to correct such deficiency and the Dog Control Office shall inspect the kennel at the end of such thirty (30) day period to determine whether it has been corrected.

3. If the Dog Control Officer determines that it has not been corrected, the Dog Control Officer shall notify the Town Board of the failure to comply and a hearing shall be held before the Town Board upon fifteen (15) days notice to the operator.

4. If the Town Board determines that the operator is not operating in accordance with the requirements of this article, the Town Board shall revoke the Kennel Special Use Permit.

5. In the case where the deficiency detected by the Dog Control Officer is the failure to provide food and water, the Dog Control Officer shall immediately remove the dogs and place them in a suitable shelter. The cost of housing such dogs at such shelter shall be at the sole cost of the operator of the kennel. The operator of the kennel shall be entitled to a hearing before the Town Board on fifteen (15) days notice to the operator and if the Town Board determines that the operator is not operating in accordance with the requirements of this article, the Town Board shall revoke the Kennel Special Use Permit.

I. Kennel Special Use Permit Procedure

The Town Board may, upon application and a public hearing thereon, and when the provisions of section 9-10A–G are met, issue a Kennel Special Use Permit as follows:

1. *Application.* Application for a Kennel Special Use Permit shall be made to the Town Board on a form provided by the Town Clerk's Office and shall be accompanied by a fee as set by the Town Board.
2. *Planning Board Review.* All applications for a Kennel Special Use Permit shall be reviewed by the Town Planning Board, which shall report its findings to the Town Board. Prior to reporting its findings to the Town Board, the Planning Board shall refer the application to the Erie County Planning Board for advisory review and in accordance with section 239-m of the General Municipal Law.
3. *Notice of public hearing.* Notice of the public hearing to be held by the Town Board shall be mailed to the adjacent property owners and published in the official newspaper of the Town of Alden at least five (5) days prior to the date of the hearing.
4. *Town Board review.* After considering the Planning Board's recommendation, the Town Board may issue a Kennel Special Use Permit attaching any conditions it may deem necessary.
5. *Term of Permit.* A Kennel Special Use Permit shall expire one (1) year from the date of issuance by the Town Board.
6. *Permit Renewal.*
 - a. Requests for renewal shall be submitted in writing to the Town Board, accompanied by the fee as set by the Town Board.
 - b. Notices of the request for renewal shall be mailed to the adjacent property owners at least five (5) days prior to the Town Board taking action on the request for renewal.
 - c. The request shall be reviewed and an inspection of the property shall be made by the Dog Control Officer per the specifications listed in section 9-10G above. The Dog control Officer shall report his/her finding to the Town Board which, upon a determine of compliance, may renew the Kennel Special Use Permit for one (1) year.

SECTION 4. SEVERABILITY

If any portion, subsection, sentence, clause, phrase or portion thereof of this local law shall for any reason held to be 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 thereof.

SECTION 5. WHEN EFFECTIVE

This Local Law shall become effective immediately upon its filing in the office of the Secretary of State.

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 December 6, 2010, and was unanimously adopted.

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

WHEREAS, a Proposed Local Law # 6 of 2010 entitled "Kennel Amendment to the Zoning Law of the Town of Alden" was introduced to the Alden Town Board for consideration by Councilperson Cooke on November 1, 2010;

WHEREAS, the Town of Alden Planning Board reviewed the proposed Local Law and recommended to the Town Board its approval on November 9, 2010;

WHEREAS, an order was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on December 6, 2010, at 7:20 pm at the Alden Town Hall, 3311 Wende Road, Alden, New York 14004 to hear all interested parties on a proposed Local Law No. 6 of the Year 2010;

WHEREAS, notice of said public hearing was duly published in the Alden Advertiser, the official newspaper of the Town of Alden on November 18, 2010;

WHEREAS, said public hearing was duly held on December 6, 2010, and *no parties in attendance had any comments in favor of or opposed to the proposed Local Law;*

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;

WHEREAS, the Erie County Division of Planning gave a "no recommendation" to the proposed Local Law on November 12, 2010, pursuant to section 239-m of the General Municipal Law;

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on November 8, 2010; and

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 THAT:

1. The Alden Town Board adopts said Local Law No. 6 of the Year 2010 entitled "Kennel Amendment to the Zoning Law of the Town of Alden", which reads as follows:

SECTION 1. TITLE

This Law shall be known as Local Law No. 6 of the Year 2010 entitled "Kennel Amendment to the Zoning Law of the Town of Alden".

SECTION 2. PURPOSE

The purpose of this to amend the Zoning Law to regulate the location of kennels and the procedure for locating said kennel in the Town of Alden and to make the Zoning Code consistent with the Town of Alden Dogs Law.

SECTION 3. AMENDMENT OF CODE

The Zoning Law of the Town of Alden as originally adopted on July 6, 1992 by Local Law No. 1 of 1992 and amended on March 20, 1995 by Local Law 1-1995; June 5, 2000 by Local Law 4-2000; September 5, 2006 by Local Law 1-2006; December 3, 2007 by Local Law 9-2007; and on August 3, 2009 by Local Law 2-2009 and is hereby amended by this Local Law No. 6 of the Year 2010 as follows:

§20-10 B. is amended to replace the definition of Kennel with the following definition:

KENNEL – The keeping, breeding or boarding of more than two dogs over the age of six months old shall constitute a “Kennel.”

§20-11 A. (2) is replaced and amended to read:

Kennels, only upon the issuance of a Kennel Special Use Permit as regulated by Chapter 9 Dogs Law of the Alden Town Code.

SECTION 4. SEPARABILITY

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.

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 December 6, 2010, and was unanimously adopted.

Councilwoman Riddoch moved and Councilman Snyder seconded the motion to approve Alden Central School’s request to use R.O. Smith and the Town Park from 3/7/11-4/5/11 for their practices while their fields are renovated. They will provide certificate of insurance and maintain our fields while using them. Unanimously Carried.

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

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

WHEREAS, Town of Alden Parks Supervisor Andy Sojka has advised the Town Board that the Parks Department is in possession of a 1999 Dodge Ram 1500 Four Wheel Drive, ½ ton pick-up truck with V-8 Magnum engine and Meyers plow that is not of any use to the Town Parks Department that he would like to offer the same for sale by sealed bid;

WHEREAS, The Town Board after full and careful review and consideration finds the request to sell the 1999 Dodge Ram 1500 Four Wheel Drive, ½ ton pick-up truck with V-8 Magnum engine and Meyers plow as being in the public interest;

WHEREAS, The Town of Alden advertised for and collected sealed bids which were opened by the Deputy Town Clerk on December 3, 2010; and

WHEREAS, the highest bidder is John Orszulak at a purchase price of \$1,589.79.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS, THAT:

1. That the Town Board hereby determines that the 1999 Dodge Ram 1500 Four Wheel Drive, ½ ton pick-up truck with V-8 Magnum engine and Meyers plow that is not of any use to the Town Parks Department are not needed for Town purposes and is surplus property;

2. The Town Board hereby authorizes the sale of the 1999 Dodge Ram 1500 Four Wheel Drive, ½ ton pick-up truck with V-8 Magnum engine and Meyers plow, as is, to John Orszulak for \$1,589.79;

3. Upon the receipt of certified funds in the amount of \$1,429.79 (Mr. Orszulak having made a \$160.00 deposit) the Town Supervisor is hereby authorized and directed to sign any and all documentation, including the vehicle Title, to effectuate the sale; and

4. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll call vote at a regular meeting on December 6, 2010, and was unanimously adopted.

THERE WAS NO UNFINISHED & TABLED BUSINESS

REPORTS OF COMMITTEES, OFFICIALS AND PERSONNEL

Councilwoman Riddoch would like the Winterfest and the Parks Grant put on the Work Session.

Attorney Strong is working on writing the various contracts for the year 2011 and drafted a request agreement re Winterfest.

Councilwoman Cooke wanted to thank the Recreation Department for the nice program they put on over the weekend.

Supervisor Smith wanted to thank the Highway Department Supervisor Mr. Fix and the employees and the Parks Dept. personnel for the excellent job they did during the recent snow storm keeping our roads as clean as possible. Received a request from a resident of Townline Rd. in Lancaster to tap into the sewer line that serves Sewer District #1, would like this on the Work Session. County Legislator Dino Fidoli will be at the Town Hall on Wednesday, December 15th, 12:30 to 2:00 P.M., as part of his outreach program.

NEXT WORK SESSION: DECEMBER 13, 2010 @ 7:00 P.M.

NEXT TOWN BOARD MTG.: DECEMBER 20, 2010 @ 7:00 P.M.

Supervisor Smith adjourned the meeting at 8:10 P.M. with a Minute of Silence in Memory of Wilma Chapman.

Debra A. Crist
First Deputy Town Clerk

