

The Regular Meeting of the Alden Town Board was held in the Town Hall at 3311 Wende Road on Monday, August 19, 2013 at 7:00 P.M. Supervisor Milligan called the Meeting to Order and led in the Pledge of Allegiance. The Roll Call was taken by the Town Clerk.

PRESENT: Harry Milligan, Supervisor  
Mary Riddoch, Councilwoman  
William Weber, Councilman

RECORDING SECRETARY: Debra A. Crist, Deputy Town Clerk

OTHERS PRESENT: Jennifer Strong, Town Attorney  
Carl Fix, Hwy. Supt.  
Mike Metzger, Town Engineer  
Gary Wagner, Planning Board  
Len Weglarski, DCO

Supervisor Milligan Moved and Councilman Weber seconded the Motion to approve the Minutes and Synopsis of the Regular Meeting of August 5, 2013

**CARRIED.**

Ayes 3 Milligan, Riddoch & Weber  
Nays 0

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCIL AND SECONDED BY COUNCIL TO WIT;

<u>ACCOUNT</u>	<u>ABST. #1</u>	<u>ABST. #2</u>	<u>TOTAL</u>
GENERAL FUND "A"	\$6,237.71		\$6,237.71
HIGHWAY FUND "DA/DB"	1,528.81		1,528.81
PART-TOWN FUND "B"	7,689.12		7,689.12
CAPITAL IMPROV. "HC"			
WD#1 FUND "WA"			
WD#2 FUND "WB"	260.57		260.57
WD#3 FUND "WC"	3,920.19		3,920.19
WD#4 FUND "WD"	11,648.14		11,648.14
SP FIRE PROT. "SF"			
SD#2 FUND "SA"	2,246.13		2,246.13
TRUST/AGCY FUND "T"	3,896.10		3,896.10
SP REFUSE FUND "SR"	35,984.72		35,984.72
STREET LIGHTING FUND "SL"	5,463.55		5,463.55
PERIWINKLE LTG. "SL1"	33.95		33.95
GRANTS			
TOTALS	\$78,908.99		\$78,908.99

UPON ROLL CALL VOTE THE FOREGOING WAS PUT TO A VOTE ON AUGUST 19, 2013 AND WAS

**ADOPTED.**

AYES 3 Milligan, Riddoch & Weber  
Nays 0

**BUSINESS FROM THE FLOOR**

Patricia Case from Genesee St. asked the Board about the Town Law regarding unlicensed vehicles. CEO Snyder advised her of the code regarding this issue. She had received a letter from the Town CEO and felt she was targeted unfairly. CEO will follow up with her regarding her violations.

**COMMUNICATIONS**

**Councilman Weber:**

A man stopped in the Town Hall last week and spoke to him about his concern about parking along Countyline Rd. it is dangerous, as they sometimes are parking on both sides of the road. He would like to see no parking signs in this area. He advised the individual that he would speak to the Highway Supt. and the Town Board regarding this problem. Supervisor Milligan advised that no parking signs have to be placed by law. Councilwoman Riddoch said that the police could be called as it is illegal to park pass

the white lines on the edge of the road. There are no white lines on this road anymore. He will talk to Highway Supt. Fix about the problem.

**Attorney Strong:**

After the Work Session, we spoke about the language to be added to the proposed deed in deeding the water well to the Village. She did send that language over to the Village Attorney, and has not heard back yet. The indemnification agreement did go out to AJF and Cheerleading, she has not heard back from them as yet either. She has heard back regarding the Bike Path from the Village. The Village would be interested in granting us an easement. Reserve Gas has been too busy to review as yet. The Mayor of the Village would like to see the plan of where the Bike Path would go. Councilwoman Riddoch will meet with the Mayor.

**Councilwoman Riddoch:**

She has a meeting tomorrow morning at 8:00 A.M. with one of the school board members and Adam Stoltman regarding the school's fees. She wanted to know if the Board had any suggestions that they would like her to bring to the table. Councilman Weber noticed that on the agenda there was a request to use the Town's lighted field from the school. We do not charge them. Councilwoman Riddoch said at a meeting last week she suggested that maybe we could come to an agreement between their Board and our Board. Attorney Strong could draw up an agreement. She would rather go down that road. Councilman Weber would like to see that happen also.

A call was received from Matt Librock regarding the JV Soccer field. She told him that we would like to rehabilitate the Robert O. Smith field this year and they might not be able to use it. She will try to work on this.

**Supervisor Milligan:**

A check was received from Time Warner Cable in the amount of \$23,634.00. This is the second check for the year. The total is \$48,349.00. We budgeted \$42,000.00, so we are up on this.

An email was received from Mayor Manicki about a business in the Village that did not approve of the Car Show because it knocked out his business for the day.

Dave Schulz, Sandridge Rd. stopped into the Supervisor's office to talk about the truck traffic on Sandridge. He was given Mike Asklar phone number to contact.

A financial news update was received from Rural Metro with regards to their bankruptcy petition. Service will continue as normal.

Ewell Free Library sent a letter with a copy of a letter they received from Jack Connors, Chair of the Buffalo & Erie County Public Library Board of Trustees regarding a decision on/or before September 15, 2013 on whether to be listed in the draft legislation as one of the libraries participating in the proposed Library District. The Ewell Free Library, along with the Town, does not go along with this because we are afraid if the County system takes over all the libraries, they will shut the Ewell Free Library down.

A report was received from Rural Metro with a performance compliance of 90% for the month.

We had an issue with E.C. W.A. They insisted because we sent two payments in one check, they thought we owed them \$452.00 in late charges. We talked and calls were made and they have agreed to drop the \$452.00 late charges regarding hydrants.

A check was received from Modern Recycling for the amount of \$674.00 for our recycling.

**NEW BUSINESS**

Councilman Weber moved and Councilwoman Riddoch seconded the Motion to approve ACS request to use the Town Park lighted field on September 18<sup>th</sup> & 24<sup>th</sup> for girls and boys Varsity games.

**CARRIED**

Ayes 3 Milligan, Riddoch & Weber

Nays 0

Supervisor Milligan moved and Councilman Weber seconded the Motion to approve Alden Garden Club's request to use the Community Center for their monthly meetings Sept. 2013-June 2014.

**CARRIED**

Ayes 3 Milligan, Riddoch & Weber

Nays 0

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

WHEREAS, A Stipulations has been agreed to between the Town of Alden and Steven A. Weber regarding the lawsuit commenced by the Town of Alden against Steven A. Weber ("Weber") for building code violations at the Weber property; and

WHEREAS, Weber has failed to comply with the terms of that Stipulation, allowing the Town of Alden to file a judgment against Weber in the amount of \$42,500.00.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS THAT:

1. The Town Attorney be and hereby is authorized and directed to file a Judgment with all relevant County Clerks and to take actions, as allowed by law, to collect on that Judgment; and
2. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll call vote at a regular meeting on August 19, 2013, and was

**ADOPTED.**

Ayes 3 Milligan, Riddoch & Weber

Nays 0

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

WHEREAS, it appears that Russo Developers and Builders, Inc. ("Russo") has failed to pay the Town of Alden its Engineering Fees (in the amount of \$585.00) for the site plan review completed by the Town Engineer on behalf of the site plan application for a proposed Wal-Mart submitted to the Town of Alden by Russo in 2007;

WHEREAS, after several months of continued review, Russo withdrew the site plan application, but failed to pay the fees owed in relation to said application; and

WHEREAS, it appears to be in the best interest of the Town of Alden to commence litigation to recover the \$585.00 owed to the Town of Alden by Russo.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS THAT:

1. The Town Attorney be and hereby is authorized and directed to commence litigation in small claims court against Russo to collect the monies owed to the Town of Alden; and
2. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll call vote at a regular meeting on August 19, 2013, and was

**ADOPTED**

Ayes 3 Milligan, Riddoch & Weber

Nays 0

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

WHEREAS, the term of Town of Alden Assessor expires on September 30, 2013 and an appointment needs to be made pursuant to sections 12(7)(a) of the Town Law and 310(2) of the Real Property Tax Law to fill this position.

WHEREAS, the current assessor, William Sivecz is fully trained and certified to continue in this capacity.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. That the Town Board hereby re-appoints William Sivecz as Assessor of the Town of Alden, his term to run from October 1, 2013 through September 30, 2019, salary and benefits as per the schedule of salaries.
2. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll call vote at a regular meeting on August 19, 2013, and was

**ADOPTED**

Ayes 3 Milligan, Riddoch & Weber

Nays 0

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

WHEREAS, the Town of Alden and Alden Junior Football and Cheerleading (“AJFC”) are interested in allowing AJFC to purchase and construct, using volunteered labor, in the Alden Town Park an LED scoreboard; an announcer’s booth; and renovating the existing concession stand (the “Project”);

WHEREAS, the Town of Alden and AJFC have come to full agreement on the terms of the Project.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Town Board approves the attached Indemnification Agreement with AJFC and hereby consents to the Project being built by volunteer labor in the Town Park. All volunteers must file proof of insurance with the Town Clerk prior to construction;
2. The Supervisor of the Town of Alden is authorized to sign any and all necessary documents to effectuate the Agreement; and
3. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll call vote at a regular meeting on August 19, 2013, and was

**ADOPTED.**

Ayes 3 Milligan, Riddoch & Weber

Nays

Councilman Weber offered the following resolution and Councilwoman Riddoch moved its Adoption

A meeting of the Town Board of the Town of Alden, in the County of Erie, New York, was held at the Town Hall, 3311 Wende Road, Alden, New York, on the 19th day of August, 2013.

PRESENT:

Hon. Harry F. Milligan, Supervisor  
Mary Riddoch, Boardmember  
William Weber, Boardmember

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In the Matter

of the

Establishment of the Zoeller Road Water District, in  
the Town of Alden, in the County of Erie, New York,  
pursuant to Article 12 of the Town Law

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FINAL ORDER ESTABLISHING DISTRICT

WHEREAS, the Town Board of the Town of Alden (herein called the “Town”), in the County of Erie, New York has received a petition, signed and acknowledged or proved as required by law

and in full compliance with the requirements of Section 191 of the Town Law, for the establishment of a water district in a portion of the Town, as described therein and herein; and

WHEREAS, the Town has received and reviewed a map, plan and report prepared by Metzger Civil Engineering, PLLC, competent engineers duly licensed by the State of New York, which report is dated July 2012 and was prepared for the proposed establishment of the Zoeller Road Water District, in the Town, and construction of a water system therein, consisting of the construction and installation of approximately 4,300 linear feet of 8-inch waterline along Zoeller Road, installation of fire hydrants and line valves, crossing of Ellicott Creek and other work required in connection therewith, including original equipment, assemblies, machinery, furnishings, valves, fittings, connections, fill, appurtenances and related site work and other ancillary work, as needed (referred to herein as the "Water Improvement"); and

WHEREAS, pursuant to the Order duly adopted on February 4, 2013, the Town Board adopted an Order reciting a description of the boundaries of the District in a manner sufficient to identify the lands included therein as in a deed of conveyance, the improvements proposed, the maximum amount proposed to be expended for such improvements, the proposed method of financing to be employed, the fact that a map, plan and report describing the same are on file in the Town Clerk's office for public inspection and specifying February 19, 2013, at 7:05 o'clock P.M. (Prevailing Time), as the time when, and the Town Hall, in the Town, as the place where, the Town Board would meet to consider the establishment of the proposed District and the construction of such water system therein, and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by Law; and

WHEREAS, following publication and posting of certified copies of said Order pursuant to Article 12 of the Town Law and after a public hearing duly held by the Town Board at the time and place therein referred to, the Town Board, by resolution duly adopted March 4, 2013, determined that the notice of public hearing was published and posted as required by law and is otherwise sufficient, that all the property and property owners included within the proposed District are benefited thereby, that all the property and property owners benefited are included within the limits of the proposed District, and that it is in the public interest to establish the District and construct said improvements therein, and the Town Board approved the establishment of the District and the Water Improvement at a cost not to exceed \$520,528; and

WHEREAS, after submission of an application by the Town Board, the State Comptroller granted permission to establish the District, by Order dated August 5, 2013, which Order was duly filed

with the Town Clerk of the Town and presented to the Town Board by said Town Clerk at the next meeting held after said Order was filed with said Town Clerk;

Now, therefore, be it

DETERMINED, that the petition was signed, and acknowledged or proved, or authenticated, as required by law and is otherwise sufficient; and be it

ORDERED, that the District is hereby approved, in the Town of Alden, to be known as Zoeller Road Water District, in the Town of Alden, situate wholly outside of any incorporated village or city, and bounded and described as follows:

(attach/insert description of District here)

and be it further

ORDERED, that Zoeller Road Water District is hereby established and the Water Improvement hereinabove referred to shall be constructed as set forth in the map, plan and report prepared by Metzger Civil Engineers, PLLC, dated July 2012, at a cost not to exceed \$520,528, which is planned to be financed by the issuance of \$520,528 serial bonds of the Town to finance said cost, and the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable;

and be it further

ORDERED, that within ten (10) days after adoption of this Order, the Town Clerk shall record with the Clerk of the County of Erie and file with the Department of Audit and Control in Albany, New York, copies of this Order, certified by said Town Clerk.

DATED: August 19, 2013

TOWN BOARD OF THE TOWN OF ALDEN

THE FOREGOING ORDER WAS DULY PUT TO A ROLL CALL VOTE AND RESULTED IN THE FOLLOWING:

Ayes 3 Milligan, Riddoch & Weber

Nays 0

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

BOND RESOLUTION OF THE TOWN OF ALDEN, NEW YORK, ADOPTED AUGUST 19, 2013, AUTHORIZING THE ESTABLISHMENT OF THE ZOELLER ROAD WATER DISTRICT AND THE CONSTRUCTION OF A WATER SYSTEM THEREIN, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$520,528, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF \$520,528 TO FINANCE SAID APPROPRIATION

Recitals

WHEREAS, the Town Board of the Town of Alden (herein called the "Town"), in the County of Erie, New York has received a petition, signed and acknowledged or proved as required by law and in full compliance with the requirements of Section 191 of the Town Law, for the establishment of a water district in a portion of the Town, as described therein and herein; and

WHEREAS, the Town Board of the Town of Alden (herein referred to as the "Town,"), in the County of Erie, New York, has received and reviewed a map, plan and report prepared by Metzger Civil Engineering, PLLC, competent engineers duly licensed by the State of New York, for the proposed establishment of the Zoeller Road Water District, in the Town, and the construction of a water system therein, consisting of the construction and installation of approximately 4,300 linear feet of 8-inch waterline along Zoeller Road, installation of fire hydrants and line valves, crossing of Ellicott Creek and other work required in connection therewith, including original equipment, assemblies, machinery, furnishings, valves, fittings, connections, fill, appurtenances and related site work and other ancillary work, as needed (referred to herein as the "Water Improvement"); and after a public hearing was duly called and held, the Town Board determined, pursuant to the resolution duly adopted on March 4, 2013, that the notice of such hearing was published and posted as required by law and is otherwise sufficient, that all the property and property owners included within the District are benefited thereby, that all the property and property owners benefited are included within the limits of the District, and that it is in the public interest to establish the District, and the Town Board approved the establishment of the District, and the construction of the Water Improvement at a cost not to exceed \$520,528; and

WHEREAS, following submission of an application by said Town Board, the State Comptroller granted permission to establish the District by Order dated August 5, 2013, which Order was duly filed with and presented to said Town Board at its first meeting held after said Order was so received; and

WHEREAS, said Town Board duly adopted a Final Order on August 19, 2013, establishing the District, therein designated as the Zoeller Road Water District, in the Town of Alden, and ordered construction of a water system therein, at a cost not to exceed \$520,528;

Now, therefore, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF ALDEN, IN THE COUNTY OF ERIE, NEW YORK (by favorable vote of not less than two-thirds of all the members of said Board) AS FOLLOWS:

Section 1. The Town hereby appropriates the amount of \$520,528 for the establishment of the Zoeller Road Water District and construction of the Water Improvement, as described in the Recitals hereto, all in accordance with the map, plan and report prepared by Metzger Civil Engineering, PLLC, engineers duly licensed by the State of New York, dated July 2012, on file in the office of the Town Clerk and heretofore approved by the Town Board of the Town. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and to the financing thereof, is \$520,528. The plan of financing includes the issuance of \$520,528 serial bonds of the Town to finance said cost, and the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable.

Section 2. Serial bonds of the Town in the principal amount of \$520,528 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness of said object or purpose for which said serial bonds are authorized be issued, within the limitations of Section 11.00 a. 1 of the Law, is forty (40) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

Section 4. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and the renewals of said bond anticipation notes, and as to executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with, and

an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This resolution shall take effect immediately and the Town Clerk is hereby authorized and directed to publish the foregoing bond resolution, in summary, in the "*Alden Advertiser*," a newspaper having a general circulation in said Town, which newspaper is hereby designated as the

official newspaper of the Town for such publication, together with the Town Clerk's statutory notice in the form prescribed by Section 81.00 of the Local Finance Law of the State of New York.

The adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Harry F. Milligan	voting Aye
Councilwoman Mary Riddoch	voting Aye
Councilman William Weber	voting Aye

The Resolution was declared adopted.

### **THERE WAS NO TABLED OR UNFINISHED BUSINESS**

#### **REPORTS OF COMMITTEES AND PERSONNEL**

##### **Councilman Weber:**

He has discussed earlier with the Town Engineer the saga they have going on in Marilla involving a waste storage facility and how the DEC is getting involved. This could affect us as we are downstream from them. We should keep a close eye on this situation.

##### **Councilwoman Riddoch:**

She would like to put the following on the Work Session:

Score Board Posts- Park Supv. A. Sojka would like the Town Engineer's input on this.

Shelter in the Park

Youth Baseball

Crittenden Membership

Skating Rink

Park Connection Trail

Councilwoman Riddoch noted that the Senior Van now has air-conditioning.

##### **Engineer Metzger:**

He followed up on the discussion with Councilman Weber regarding the tank in Marilla. He agrees with Councilman Weber that we need to watch this closely, in many instances we are downstream from Marilla. Supervisor Milligan said that Supervisor Gertz from Marilla spoke at the last Supervisor's meeting and said that this storage tank had been built by the DEC about 15-20 years ago for something else. It is concrete underground. He does not know the details of the product that will be stored in it. Attorney Strong will be at the Marilla Town Hall tomorrow night and she will see about getting a copy of the application.

He has been talking to Mike Asklar regarding the truck traffic situation on Sandridge/W. Main and shared the story he had gotten from the Village Clerk's Office regarding the pedestrian sign being moved by a trucker so he could make the turn and not putting it back. This almost caused an accident. Mike Asklar is pressing the D.O.T. to come up with some kind of alternative. He will bring any new information to the Work Session.

A meeting will be set up with a structural engineer, Andy Sojka, CEO Snyder and Engineer Metzger regarding the Community Center's structural issues. He would like this on the Work Session.

##### **CEO Snyder:**

Reported that the new front handicap doors have been installed at the Town Hall.

##### **DCO Len Weglarski:**

Reported on receiving complaints regarding the kennel on Kieffer Rd. The kennel has a special use permit that was issued by the Town. Details of the license will be checked out as far as boarding of dogs. The complaints have to be taken into consideration the next time it is up for renewal. If the Town code is being broken, she can be sited and taken to Town Court. Attorney Strong will check out the law. He is receiving numerous complaints about barking dogs in the Village. They can be sited and taken to the Town Court per Attorney Strong.

##### **Supervisor Milligan:**

