

MEETING NO 12
REGULAR NO 12

REGULAR BOARD MEETING

JUNE 19, 2006
7:30 P.M.

The Regular Meeting of the Alden Town Board was held in the Town Hall at 3311 Wende Road on Monday, June 19, 2006 at 7:30 PM. Supervisor Smith called the Meeting to order. Councilwoman Cooke led in the Pledge of Allegiance. The roll call was taken by the Town Clerk.

PRESENT: Ronald L. Smith, Supervisor
William Weber, Councilman
Arlene A. Cooke, Councilwoman
RECORDING SECRETARY: Dorothy L. Bycina, Town Clerk
OTHERS PRESENT: Debra Crist, Deputy Town Clerk
Jennifer Strong, Town Attorney
Harry F. Milligan, Highway Supt
Frank Trybuskiewicz, CEO
Ralph Witt, Planning Board Chairman
ABSENT: Mary Riddoch, Councilwoman
Ronald L. Snyder, Councilman

Councilwoman Cooke moved and Councilman Weber seconded the Motion to approve the Minutes & Synopsis of the Regular Meeting of June 5, 2006. Unanimously carried.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE AND SECONDED BY COUNCIL

ACCOUNT	ABST #1	ABST #2	TOTAL
GENERAL FUND "A"	87,998.03		87,998.03
HIGHWAY FUND "DA/DB"	15,719.47		15,719.47
PARTTOWN FUND "B"	3,769.75		3,769.75
WD#1 FUND "WA"	2,777.11		2,777.11
WD#2 FUND "WB"	375.20		375.20
WD#3 FUND "WC"	1,983.20		1,983.20
WD#4 FUND "WD"	1,299.80		1,299.80
SPFIRE FUND "SF"			
SD#L FUND "SI"			
SD#2 FUND "SA"	325.67		325.67
TRUST/AGCY FUND "T"	695.23		695.23
SP REFUSE FUND "SR"	27,279.62		27,279.62
ST LIGHTING FUND "SL"	7,088.00		7,088.00
ABST #1A-Part Town "B"	11,746.00		11,746.00
TOTAL	161,057.08		161,057.08

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

BUSINESS FROM THE FLOOR

John Fisher/1342 Two Rod Road questioned the Railroad Tracks that would be used for the Bike Path – he was concerned that this would include the County Farm Property and the State Prison Property – it was determined that this Railroad is not the one that crosses the Facilities Property.

COMMUNICATIONS

Supervisor Smith reported the following: an Invitation from the Board of Education for June 23rd, honoring Donald Raw; letter from US DOT re the crossing at Sandridge Road Crossing and locomotive horn noise at the Reinhardt Road/Peters Corners Road Crossings; request from Evelyn Sivecz re memorial tree ring around the tree/brush located in the front of the judges office window on the front side of the Town Hall; copy of the approved Village Board Minute's of the May 18th Meeting; copy of letter from

TVGA re the Williamsville Toll Barrier Improvement Project; copy of letter from the State of New York re "Notice of Tentative State Equalization Rate"; copy of letter that the Supervisor sent to County Executive Giambra re the cost of County Sheriff's Patrol For the Town of Alden; copy of letter from Heritage Centers re interest and intent to establish a specific Individual Residential Alternative in the Town of Alden.

NEW BUSINESS

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

WHEREAS, New York State Senator Dale Volker has secured \$10,000 through the New York State Office of Parks, Recreation and Historic Preservation to construct a path in the Town Park; and

WHEREAS, Creation of this pathway will enhance the recreational facilities available in the community;

NOW THEREFORE BE IT RESOLVED, that Ronald L. Smith, as Supervisor of the Town of Alden, is hereby authorized to sign legal documents pertaining to the above referenced grant on behalf of the Town of Alden.

This resolution shall take effect immediately. The foregoing resolution was duly put to a vote on June 19, 2006 and was unanimously adopted

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

WHEREAS, the Town Board of the Town of Alden is considering an application by Mary Hugenschmidt for the subdivision of two (2) lots. The entire parcel currently consists of approximately 2 +/- acres on Genesee Street in the Town of Alden. The first proposed lot ("Parcel A") would be 165.23' x 299.80' (approximately 1.11 acres) and the second proposed lot ("Parcel B") would be the remainder of the parcel; further identified by SBL #85.00-6-16.1 (The "Proposed Action") and

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; and

WHEREAS, the Town Board believes that the Town of Alden is: the agency primarily responsible for undertaking decisions as to subdivision; is 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 for the Proposed Action; and is the most local agent with permitting authority; and

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:

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

The above resolution was duly put to roll call vote at a regular meeting of the Town Board of the Town of Alden on June 19, 2006 and was unanimously adopted.

Supervisor Smith moved and Councilwoman Cooke seconded the Motion to renew the HOP for Marc & Lou Ann Miller/11256 Broadway. Unanimously carried.

Tabled the Resolution re 1418 Two Rod Road.

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

RESOLVED, that Margaret McCartin-Orcutt be and hereby is appointed Crossing Guard and Jane Mahaney be and hereby is appointed Alternate Crossing Guard for the remainder of 2006 at a rate of \$9.00 per hour, no benefits and Additional Alternate to be utilized on an as-needed basis: Darlene Kocher.

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

Councilman Weber moved and Councilwoman Cooke seconded the Motion to approve St. John the Baptist School's request for use of Town Facilities – 6th Annual Softball Tournament. Unanimously carried.

Supervisor Smith polled the Board and with no objection the following items were added to the Agenda.

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

WHEREAS, Cingular Wireless and National Grid have applied for and received approval for the construction of a cellular tower on Exchange Street in the Town of Alden ("Tower") but have commenced construction of the Tower in violation of the approved site plan.

WHEREAS, the Town of Alden has agreed to allow Cingular Wireless and National Grid to continue the construction of the Tower but has required that National Grid place \$20,000.00 in Escrow (which amount has been received by the Town) so that the Town can use said monies to remove and restore the roadway constructed by National Grid in violation of the approved site plan if National Grid fails to do so after completing the Tower.

WHEREAS, National Grid has agreed to remove and restore the roadway constructed in violation of the approved site plan within 30 days of completing the Tower.

NOW THEREFORE, BE IT RESOLVED

1. The Town Board approves the above summarized understanding with National Grid, as reviewed and recommended by the Town of Alden Planning Board on June 13, 2006
2. That Supervisor of the Town of Alden is hereby authorized to sign any of the Escrow Agreement to effectuate this Agreement; and
3. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll call vote on June 19, 2006 and was unanimously carried.

Tabled the Resolution re Haungs Negative Declaration/Subdivision

THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR SMITH WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN COOKE

WHEREAS, the Town Board of the Town of Alden ("Town Board") is considering an application by Jack Domin for the subdivision of three (3) lots. The entire parcel

currently consists of approximately 50.261 +/- acres on West Main Street in the Town of Alden. The first proposed lot ("Parcel A") would be 46,334 +/- acres; the second proposed lot ("Parcel B") would be 2.427 +/- acres, and the third proposed lot ("Parcel C") would be 1.5 +/- acres; further identified by SBL #s 108.00-4-38; 108.00-4-37 and 108.00-4-35 (The "Proposed Action") and

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

WHEREAS, the Town of Alden believes that it is: the agency primarily responsible for undertaking decisions as to subdivision; the agency with the broadest governmental power 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; and

WHEREAS, the Town Building Inspector provided notice to the Erie County Division of Planning on June 1, 2006, 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 June 9, 2006; and

WHEREAS, the New York State Environmental Quality Review Act requires the Town to determine the Lead Agency; 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 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 June 13, 2006, recommended to the Town Board the approval of the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS;

1. The Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA
2. The Town Board has determine on June 5, 2006, that it would 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. That the following parcels, identified above as "Parcel A", "Parcel B", and "Parcel C" as more particularly described on the attached legal descriptions are given subdivision approval.

PROPOSED DESCRIPTION
DOMIN PROPERTY
VACANT LAND WEST MAIN STREET
TOWN OF ALDEN

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Alden, County of Erie and State of New York, being part of Lot No. 24, Township 11, Range 5 of the Holland Land Company's Survey, bounded and described as follows:

PARCEL "A" – 46.334 acres

BEGINNING at a point in the south line of Lot No. 24 (being also the center line of West Main Street) a record distance of 1,696.2 feet and a measured distance of 1,709.79 feet

easterly from the southwest corner of said lot, said point being the southwest corner of lands deeded to Jack D. Domin by deed recorded in the Erie County Clerk's Office in Liber 7022 of Deeds at page 537; thence northerly at an interior angle of $89^{\circ} 52' 20''$ along the westerly line of said lands deeded to Domin and parallel with the west line of Lot No. 24 a distance of 362.04 feet; thence easterly at an exterior angle of $93^{\circ} 52' 20''$ a distance of 184.91 feet; thence continuing easterly at an exterior angle of $176^{\circ} 00' 00''$ and parallel with the south line of Lot No. 24 a distance of 277.65 feet; thence southerly at Right angles 374.94 feet to the south line of Lot No. 24, thence easterly at right angles and along said south line 100.00 feet to the southwest corner of lands deeded to Daniel L. Kerl and Dolores E. Kerl, his wife, by deed recorded in the Erie County Clerk's Office in Liber 8146 of Deeds at page 379; thence northerly at an interior angle of $90^{\circ} 29' 00''$ and along the westerly line of said lands deeded to Kerl 233.00 feet to the northwest corner of said lands deeded to Kerl; thence easterly at an exterior angle of $90^{\circ} 29' 00''$ and parallel with the south line of Lot No. 24 and along the northerly line of said lands deeded to Kerl and continuing easterly along the northerly line of lands deeded to Robert F. Helenbrook and Robert Helenbrook, his wife, by deed recorded in the Erie County Clerk's Office in Liber 8143 of Deeds at page 475 a distance of 200.00 feet to the northeast corner of said lands deeded to Helenbrook; thence southerly at an exterior angle of $89^{\circ} 31' 00''$ and along the easterly line of said lands 233.00 feet to the south line of Lot No. 24; thence easterly at an interior angle of $89^{\circ} 31' 00''$ along the south line of Lot No. 24 a distance of 100.00 feet to the division line between aforementioned lands deeded to Domin on the west and lands formerly owned by Martin Reuhling on the east, thence northerly at an interior angle of $89^{\circ} 52' 20''$ along said division line and parallel with the west line of Lot No. 24 a distance of 1,616.34 feet to the northwest corner of said lands formerly owned by Martin Reuhling; thence easterly at an exterior angle of $89^{\circ} 52' 20''$ along the northerly line of said lands formerly owned by Martin Reuhling and parallel with the south line of Lot No. 24 a distance of 267.96 feet to the easterly line of aforementioned lands deeded to Domin, thence northerly at an interior angle of $89^{\circ} 52' 20''$ along said easterly line of Domin and parallel with the west line of Lot No. 24 a distance of 527.66 feet; thence westerly at an interior angle of $90^{\circ} 07' 40''$ and parallel with the south line of Lot No. 24 a distance of 1,129.26 feet to the westerly line of aforementioned lands deeded to Domin; thence southerly at an interior angle of $89^{\circ} 52' 20''$ along Domin's westerly line and parallel with the west line of Lot No. 24 a distance of 1,294.00 feet to the northeast corner of lands deeded to Jack D. Domin by deed recorded in the Erie County Clerk's Office in Liber 7097 of Deeds at page 377; thence westerly at an exterior angle of $89^{\circ} 52' 20''$ along the northerly line of lands deeded to Domin by last mentioned deed and parallel with the south line of Lot No. 24 a distance of 40.00 feet to the northwest corner of said lands deeded to Domin; thence southerly at an interior angle of $89^{\circ} 52' 20''$ along the westerly line of said lands deeded to Domin and parallel with the west line of Lot No. 24 a distance of 850.00 feet to the south line of Lot No. 24; thence easterly along the south line of Lot No. 24 a distance of 40.00 feet to the point of beginning, containing 41.402 acres of land more or less

Subject to the rights of the public and others in and to that portion of the above described premises lying within the bounds of the public highway.

ALSO:

BEGINNING at a point in the south line of Lot No. 24 (being also the center line of West Main Street) distance 1495.72 feet easterly from the southwest corner of said lot, said point being the southeast corner of land deeded to Ward S. Pautler and Craig T. Pautler, as tenants in common, by deed recorded in the Erie County Clerk's Office in Liber 10297 of Deeds at page 159; thence northerly along Pautler's easterly line and parallel with the west line of Lot No. 24 a distance of 684.00 feet to Pautler's northeast corner; thence westerly along Pautler's northerly line and parallel with the south line of Lot No. 24 a distance of 230.50 feet to Pautler's northwest corner and being a point in the easterly line of land deeded to Andrew R. Sojka and Lori A. Sojka by deed recorded in the Erie County Clerk's Office in Liber 10980 of Deeds at page 967; thence northerly along Sojka's easterly line and continuing northerly along the easterly line of land deeded to Leonard A. Weisbeck Jr. by deed recorded in the Erie county Clerk's Office in Liber 10980 of Deeds at page 5986 and parallel with the west line of Lot No. 24 a distance of 286.20 feet to the southerly line of land deeded to Gary D. Wagner by deed recorded in

the Erie County Clerk's Office in Liber 10879 of Deeds at page 1502; thence easterly along Wagner's southerly line and parallel with the south line of Lot No. 24 a distance of 444.57 feet to the westerly line of land deeded to Jack D. Domin by deed recorded in the Erie County Clerk's Office in Liber 7022 of Deeds at page 537; thence southerly along said westerly line and parallel with the west line of Lot No. 24 a distance of 120.20 feet to the northeast corner of lands deeded to Jack D. Domin by deed recorded in the Erie County Clerk's Office in Liber 7097 of Deeds at page 377; thence westerly along the northerly line of said lands deeded to Domin and parallel with the south line of Lot No. 24 a distance of 40.00 feet to the northwest corner of said lands deeded to Domin; thence southerly along the westerly line of said lands deeded to Domin and parallel with the west line of Lot. No. 24 a distance of 650.00 feet to the northeast corner of land deeded to Linda A. Hahn by deed recorded in the Erie County Clerk's Office in Liber 9578 of Deeds at page 206; thence westerly along Hahn's northerly line and parallel with the south line of Lot. No. 24 a record distance of 129.55 feet and a measured distance of 124.07 feet to the easterly line of land deeded to Jack Domin by deed recorded in the Erie County Clerk's Office in Liber 9041 of Deeds at page 563; thence southerly along the division line between land owned by Jack Domin on the west and land owned by Linda A. Hahn on the east an parallel with the west line of Lot. 24 a distance of 200.00 feet to the south line of Lot. No. 24; thence westerly along the south line of Lot No. 24 a distance of 50.00 feet to the point of beginning, containing 4.932 acres of land more or less.

Subject to the rights of the public and others in and to that portion of the above described premises lying within the bounds of the public highway.

PROPOSED DESCRIPTION
DOMIN PROPERTY
12648 WEST MAIN STREET (2.427±AC)
TOWN OF ALDEN

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Alden, county of Erie and State of New York, being part of Lot No. 24, Township 11, Range 5 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the south line of Lot No. 24 (being also the center line of West Main Street) distance 100.00 feet westerly from the southwest corner of lands deeded to Daniel L. Kerl and Dolores E. Kerl, his wife, by deed recorded in the Erie County Clerk's Office in Liber 8146 of Deeds at page 379 said point being distance 2, 171.09 feet easterly from the southwest corner of Lot No. 24 and distant 1,482.28 feet westerly from the southeast corner of said Lot No. 24 ; thence northerly at right angles 374.94 feet; thence westerly at right angles and parallel with the south line of Lot No. 24 a distance of 277.65 feet; thence southerly at an interior angle of 88°00'00" a distance of 184.00 feet, thence southwesterly at an exterior angle of 138°00'00" a distance of 25.00 feet; thence southerly at an interior angle of 142°00'00" a distance of 172.00 feet to the south line of Lot No. 24; thence easterly along said south line 293.30 feet to the point of beginning, containing 2.427 acres of land more or less.

Subject to the rights of the public and others in and to that portion of the above described premises lying within the bound of the public highway

PROPOSED DESCRIPITON
DOMIN PROPERTY
12630 WEST MAIN STREET (1.520±)
TOWN OF ALDEN

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Alden, county of Erie and State of New York, being part of Lot No. 24, Township 11, Range 5 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the south line of Lot No. 24 (being also the center line of West Main Street) a record distance of 1696.2 feet and a measured distance of 1709.79 feet easterly from the southwest corner of said lot, said point being the southwest corner

of lands deeded to Jack D. Domin by deed recorded in the Erie County Clerk's Office in Liber 7022 of Deeds at page 537; thence northerly at an interior angle of 90°07'40" along the westerly line of said lands deeded to Domin and parallel with the west line of Lot No. 24 a distance of 362.04 feet; thence easterly at an interior angle of 93°52'20" a distance of 184.91 feet; thence southerly at an interior angle of 88°00'00" a distance of 184.00 feet; thence southwesterly at an interior angle of 138°00'00" a distance of 25.00 feet; thence southerly at an exterior angle of 142°00'00" a distance of 172.00 feet to a point in the south line of Lot No. 24 distance 168.00 feet easterly from the point of beginning and being 1775.58 feet distance westerly from the southeast corner of Lot No. 24; thence westerly at an interior angle of 92°00'00" along the south line of said lot 168.00 feet to the point of beginning, containing 1.520 acres of land more or less.

Subject to the rights of the public and others in and to that portion of the above described premises lying within the bounds of the public highway.

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 June 19, 2006 and was unanimously adopted.

Supervisor Smith moved and Councilman Weber seconded the Motion to allow the Alden Chamber of Commerce to utilize the Town's Portable Band Shell during the season of the Alden Farmers Market which runs through the end of October – use to be dependant upon the weather and effective event – the Chamber would coordinate with Bud Milligan and the Highway Dept regarding the use of the Band Shell. Unanimously carried.

THERE WAS NO UNFINISHED & TABLED BUSINESS

REPORTS FROM STANDING COMMITTEES AND PERSONNEL

Councilwoman Cooke attended five (5) Meetings re the interviewing for the new Superintendent of School, also attended a Meeting at UB re Bird Flu

Supervisor Smith received from the Court a request for transfer of Funds for the month of May; also received the Minute's of the 5/9th Planning Board and their 6/13th Agenda. The Meetings for the month of July are as follows: Board Meetings – July 10th and July 24th; Work Session will be July 17th and July 31st.

Councilman Weber moved and Councilwoman Cooke seconded the Motion to enter into an Executive Session at 8:00 PM to discuss litigation. Unanimously carried.

Councilwoman Cooke moved and Councilman Weber seconded the Motion to re-enter the Regular Board Meeting at 8:15 PM. Unanimously carried.

Supervisor Smith adjourned the Meeting at 8:16 PM with a Minute's silence in Memory of Olga Koschtschuk, Dolores Blaskovits and Herbert Schmidt.

DOROTHY L. BYCINA
TOWN CLERK