

MEETING NO. 19
REGULAR NO. 19

REGULAR BOARD MEETING
TOWN OF ALDEN

OCTOBER 4, 2010
7:00 P.M.

The Regular Meeting of the Alden Town Board was held in the Town Hall at 3311 Wende Road on Monday, October 4, 2010 at 7:00 P.M. Supervisor Smith called the meeting to Order. Councilwoman Cooke led in the Pledge of Allegiance. The roll call was taken by the First Deputy Town Clerk.

PRESENT: Ronald Smith, Supervisor
Mary Riddoch, Councilwoman
William Weber, Councilman
Ronald Snyder, Councilman
Arlene Cooke, Councilwoman

RECORDING SECRETARY: Debra A. Crist, First Deputy Town Clerk

OTHERS PRESENT: Jennifer Strong, Town Attorney
Michael Metzger, Town Engineer
Gary Wagner, Planning Board
Len Weglarski, DCO

Councilman Snyder moved and Councilwoman Cooke seconded the Motion to approve the Minutes and Synopsis of the Regular Meeting of September 20, 2010. Unanimously Carried.

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

ACCOUNT	ABST. #1	ABST. #2	TOTAL
GENERAL FUND "A"	\$36,584.81	\$11,896.18	\$48,480.99
HGHWY FUND "DA/DB"	64,329.39	581.82	64,911.20
PART-TOWN FUND "B"	20,118.95	1,282.46	21,401.41
WD#2 FUND "WB"	375.20		375.20
WD#3 FUND "WC"	2,063.60		2,063.60
WD#4 FUND "WD"	1,299.80		1,299.80
SP FIRE PROT. "SF"			
SD#2 FUND "SA"	3,201.09	1,357.65	4,558.74
TRUST/AGCY FUND "T"	344.00	2,546.88	2,890.88
SP REFUSE FUND "SR"	38,690.90		38,690.90
STREET LIGHTING FUND "SL"	5,927.67		5,927.67
PERIWINKLE LTG. "SL1"	59.90		59.90
GRANTS			
TOTALS	\$172,995.31	\$17,664.99	\$190,660.30

(Pd. 9-20-10)

UPON ROLL CALL VOTE THE FOREGOING WAS UNANIMOUSLY ADOPTED.

BUSINESS FROM THE FLOOR

Supervisor Smith welcomed the students.

James Jozwiak, 11090 John Court came to the Board to try to get some resolution to a water control issue they are having at the end of John Court. Mr. Jozwiak showed the Board pictures that were taken in June, after a heavy rain. He has spoke to Highway Supt. Fix and Councilman Weber about this problem and wants answers to this problem and is getting none. Supervisor Smith said the Town Board has no jurisdiction over the Highway Supt., as he is an elected official. Discussion on alternative actions. Mr. Jozwiak will seek his own legal counsel.

Jeffrey Drilling/Lancaster owns 68 acres bordering Mr. Jozwiak's property and had the same complaint and would like action. He will also seek legal counsel.

Winnie Fisher, Two Rod Rd., questioned if Attorney Strong would have to represent Highway Superintendent Fix if legal action is brought against him? Attorney Strong advised if the Board so instructs her to. Winney was concerned that the Attorney will receive additional compensation.

Dawn Merritt, 11302 Broadway, also owns property by flooded out area questioned whether the Town Board could go over Highway Supt. Fix's authority and order the employees to clean this out? Supervisor Smith advised that the day to day operations of the Highway Department are under the control of the Highway Supt., he would have to be removed from office, the Board cannot direct people who work underneath him.

Steve Fox, Old Wende Rd. questioned Councilwoman Cooke about insurance for people in the Office of Emergency Management? Councilwoman Cooke said they are covered by insurance through the County. He also had questions about the solar panels that will be installed. Questioned if they thought of pole mounts instead of roof mounts? There will be a new roof installed at the Town Hall before roof mount solar panels are installed.

AT 7:30 P.M. SUPERVISOR SMITH ASKED FOR A MOTION TO MOVE INTO THE PUBLIC HEARING.

At 7:30 P.M. Councilman Weber moved and Councilwoman Riddoch seconded the motion to enter into the Public Hearing. Unanimously Carried.

The First Deputy Town Clerk read the notice of Public Hearing that was published in the Alden Advertiser re use of Federal Community Development Funds in the Town of Alden.

Supervisor Smith explained the purpose. The Town has identified two possible subjects for applications this year.

- 1.) Improvement to handicap accessibility to bathrooms in the Town Park/back bathrooms.
- 2.) Master Plan Implementation; begin re-codification of the codebook to bring it up to date.

The Supervisor opened the Floor for 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 HEARING AND ENTER BACK INTO THE REGULAR MEETING

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

COMMUNICATIONS

Councilman Weber received a call about a drainage problem on Zoeller Rd.

Councilwoman Cooke received a call from a citizen that is concerned about the rising amount of signs going up in Alden. She would like this on the Work Session.

Supervisor Smith received notice from Erie County Department of Highway about North Road being closed to one lane between Crittenden and Countyline Rd., received the monthly reports from the Town of Alden Building Department and Town Clerk's Office for September 2010, received a letter from the State of New York Department of Transportation Region 5 regarding the letter sent by the Town of Alden about dangerous intersections; within the Town they reviewed the intersection of Genesee St. and Wende Rd. and there was only 2 accidents within the past three years; they cannot justify reconstruction of this intersection at this time, received from the Town Planning Board their unapproved minutes from their September meeting and their agenda for their October 12th meeting, received the Village of Alden's approved Board minutes from September 9, 2010, received from Erie County Department of Environmental Planning a request to read a public notice:

PUBLIC NOTICE
2010 30 – DAY PERIOD
FOR INCLUSION OF LANDS
INTO AN AGRICULTURAL DISTRICT

The Erie County Legislature on September 23, 2004 designated November 1 through November 30 each year as the annual thirty-day period during which landowners may submit requests to include predominantly viable agricultural land into an existing certified agricultural district as per New York State Agriculture and Markets Law Section 303-b.

The Erie County Department of Environment and Planning (ECDEP) (Room 1063) at 95 Franklin Street Buffalo, New York 14202 will accept applications for addition into an agricultural district.

Town Supervisors, Clerks and Assessors in Erie County and ECDEP at the above-mentioned address have copies of the application form to provide to any persons requesting them.

If you have any questions or problems concerning the 30-day period process, please contact ECDEP Planner John Opalka at (716) 858-6229.

Supervisor Smith asked that the foregoing be added to the minutes.

NEW BUSINESS

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

WHEREAS, the Town Board of the Town of Alden is considering the adoption of “Local Law No. 3 of the Year 2010, entitled “Notice of Defects” (the “Proposed Action”);

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

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

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

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS 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.
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting on October 4, 2010, and was unanimously adopted.

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

WHEREAS, the Town Board of the Town of Alden is considering the adoption of “Local Law No. 4 of the Year 2010, entitled “Court Appearances” (the “Proposed Action”);

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

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

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

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS 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.
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting on October 4, 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, under § 20-11(H) of the Town of Alden Code, of Petschke, Inc. for site plan review of the proposed construction of a 60’ x 40’ x 14’ tall cold storage pole barn with steel siding and asphalt roof (the “proposed action”) at on a improved parcel located at 12501 Broadway in the Town of Alden, County of Erie and State of New York, further identified by SBL # 119.09-1-3;

WHEREAS, the Town Board of the Town of Alden 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 has provided notice to County Planning on August 24, 2010, for this site plan review as required under Section 239-m of the General Municipal Law;

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;

WHEREAS, the Town of Alden did assume Lead Agency Status on September 7, 2010, for the purpose of determining what significance this action has on the environment;

WHEREAS, the NYS Department of Transportation; Erie County Planning and the Army Corps of Engineers have consented to the Town of Alden acting as Lead Agency;

WHEREAS, the Town of Alden Planning Board has recommended to the Alden Town Board the approval of the proposed site plan; and

WHEREAS, the Town Board as Lead Agency did consider comments received from the involved agencies: NYS Department of Transportation; Erie County Planning and the Army Corps of Engineers.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS, THAT:

1. The Town Board, as Lead Agency, has determined that the Proposed Action is an Unlisted Action under SEQRA.
2. The Town of Alden, as Lead Agency, hereby determines that the unlisted action described in the attached SEQRA 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 the Proposed Action.
3. That the proposed site plan is approved
4. This Resolution shall take effect immediately.

The adoption of the foregoing Resolution was duly put to a roll call vote at a regular meeting on October 4, 2010, and was unanimously adopted.

Councilwoman Cooke moved and Councilman Snyder seconded the motion to introduce Local Law #5/2010/Dog Law and refer the same to the Planning Board for review and recommendation. Unanimously Carried.

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

WHEREAS, the Town Board of the Town of Alden is considering an application by Michael and Gayle Thorpe of two (2) lots. The entire parcel currently consists of approximately 113 vacant acres between Kieffer and Westwood Roads in the Town of Alden, further identified as SBL # 107.00-6-1.1. The first proposed lot ("Parcel A") would be a 300' x 300' parcel fronting on Westwood Road; the second proposed lot ("Parcel B") would be the remaining 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 at the conclusion of the mandatory thirty (30) day waiting period as prescribed by 6 NYCRR Part 617; and
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 October 4, 2010, and was unanimously adopted.

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

WHEREAS, the Town Board of the Town of Alden is considering an application, by Dale Nawrocki, for the subdivision of four (4) lots. The entire parcel as currently constituted consists of approximately 58.475 vacant acres on Two Rod Road in the Town of Alden (further identified by SBL # 107.00-6-27). Proposed lots "G," "H" and "I" will each be approximately 5.070 acres making the remaining parcel approximately 43.265 acres (The "Proposed Action"); and

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

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS THAT:

1. The Town Board has determined that the proposed minor subdivision 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 minor subdivision application.

3. The Town Building Inspector has provided notice to the Erie County Division of Planning for this proposed minor subdivision, as required under Section 239-m of the General Municipal Law.
4. 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 October 4, 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 (the "Town") has received information indicating that Town Employee Martin Dugan ("Employee") has not properly performed the duties of his role as Building Inspector and Code Enforcement Officer, and

WHEREAS, the Town Board needs to retain special counsel to represent the Town in the proceedings against Employee;

WHEREAS, hiring an attorney falls under the professional service exemption of the Town of Alden's Procurement Policy & Procedure Guidelines and the General Municipal Law;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS THAT:

1. Chris G. Trapp, Esq. is appointed as Special Counsel to the Town of Alden to represent the Town of Alden in its proceedings against Employee.
2. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, at a regular meeting on October 4, 2010, and was unanimously adopted.

* * *

SUPERVISOR SMITH offered the following resolution and moved its adoption:

REFUNDING BOND RESOLUTION OF THE TOWN OF ALDEN, NEW YORK, ADOPTED OCTOBER 4, 2010, AUTHORIZING THE REFUNDING OF ALL OR A PORTION OF CERTAIN OUTSTANDING SERIAL BONDS OF SAID TOWN, STATING THE PLAN OF REFUNDING, APPROPRIATING AN AMOUNT NOT TO EXCEED \$800,000 FOR SUCH PURPOSE, AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$800,000 REFUNDING BONDS TO FINANCE SAID APPROPRIATION, AND MAKING CERTAIN OTHER DETERMINATIONS RELATIVE THERETO

Recitals

WHEREAS, on March 23, 1998, the Town of Alden, in the County of Erie, New York (herein called the "Town"), issued its \$1,073,000 Water District Serial Bonds-1998, which are currently outstanding in the principal amount of \$725,000 (herein referred to as the

“Outstanding 1998 Bonds”) to finance the establishment of Water District No. 4 and the construction of a water system therein; and

WHEREAS, the Outstanding 1998 Bonds bear interest at a rate of four and seven-eighths per centum per annum, payable semiannually on March 1 and September 1 in each year to maturity and mature in the principal amount of \$29,000 on March 1 in each of the years 2011 through 2035, inclusive.

WHEREAS, Sections 90.00 and 90.10 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the “Law”), permit the Town to refund all or a portion of the outstanding unredeemed maturities of such bonds by the issuance of new bonds, the issuance of which will result in present value debt service savings for the Town, and the Town Board of Town has determined that it may be advantageous to refund all or a portion of the Outstanding 1998 Bonds;

NOW, THEREFORE, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF ALDEN, NEW YORK (by the favorable vote of at least two-thirds of all the members of said Town Board), AS FOLLOWS:

Section 1. In this resolution, the following definitions apply, unless a different meaning clearly appears from the context:

- (a) “Bond To Be Refunded” or “Bonds To Be Refunded” means all or a portion of the aggregate Outstanding 1998 Bonds, as shall be determined in accordance with Section 8 hereof.
- (b) “Escrow Contract” means the contract, if any, to be entered into by and between the Town and the Escrow Holder pursuant to Section 10 hereof.
- (c) “Escrow Holder” means the bank or trust company, if any, designated as such pursuant to Section 10 hereof.
- (d) “Present Value Savings” means the dollar savings which result from the issuance of the Refunding Bonds computed by discounting the principal and interest payments on both the Refunding Bonds and the Bonds To Be Refunded from the respective maturities thereof to the date of issue of the Refunding Bonds at a rate equal to the effective interest cost of the Refunding Bonds. The effective interest cost of the Refunding Bonds shall be that rate which is arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the Refunding Bonds from the maturity dates thereof to the date of issue of the Refunding Bonds and to the agreed upon price including estimated accrued interest.

- (e) “Redemption Date” means any date with respect to the Outstanding 1998 Bonds, as shall be determined by the Supervisor, as chief fiscal officer, pursuant to Section 8 hereof.
- (f) “Refunding Bond” or “Refunding Bonds” means all or a portion of the \$800,000 Refunding Serial Bonds-2010 of the Town of Alden, authorized to be issued pursuant to Section 2 hereof.
- (g) “Refunding Bond Amount Limitation” means an amount of Refunding Bonds which does not exceed the principal amount of Bonds To Be Refunded plus the aggregate amount of unmatured interest payable on such Bonds To Be Refunded, to and including the applicable Redemption Date, plus redemption premiums, if any, payable on such Bonds To Be Refunded as of such Redemption Date, as hereinabove referred to in the Recitals hereto, plus costs and expenses incidental to the issuance of the Refunding Bonds including the development of the refunding financial plan, and of executing and performing the terms and conditions of the Escrow Contract, if required by applicable law, and all fees and charges of the Escrow Holder as referred to in Section 10 hereof.

Section 2. The Town Board of the Town of Alden (herein called the “Town Board”), hereby authorizes the refunding of the Bonds To Be Refunded, and appropriates an amount not to exceed \$800,000 to accomplish such refunding. The plan of financing said appropriation includes the issuance of not to exceed \$800,000 Refunding Bonds and the levy and collection of a tax upon all the taxable real property within the Town to pay the principal of and interest on said Refunding Bonds as the same shall become due and payable. Bonds of the Town in the maximum principal amount of \$800,000 and designated substantially as “Refunding Serial Bonds-2010,” are hereby authorized to be issued pursuant to the provisions of the Law. The proposed financial plan for the refunding in the form attached hereto as **Exhibit A** (the “Refunding Financial Plan”) prepared for the Town by Roosevelt & Cross, Inc., New York, and hereby accepted and approved, includes the deposit of all or part of the proceeds of said Refunding Bonds with an Escrow Holder pursuant to an Escrow Contract, if required by applicable law, as authorized in Section 10 hereof, the payment of all costs incurred by the Town in connection with said refunding from such proceeds and the investment, if any, of a portion of such proceeds by the Escrow Holder in certain obligations. The proceeds of the Refunding Bonds or the principal of and interest from the investment thereof, together with the balance of any proceeds held uninvested, shall be sufficient to pay (i) the principal of and interest on the Bonds To Be Refunded becoming due and payable on and prior to each applicable Redemption Date and (ii) the principal of and premium, if any, on the Bonds To Be Refunded which are to be called for redemption prior to maturity on any such Redemption Date.

Section 3. The Bonds To Be Refunded referred to in Section 1 hereof are all or a portion of the Outstanding 1998 Bonds, as referred to in the Recitals hereof. In accordance with

the refunding financial plan, the Refunding Bonds authorized in the aggregate principal amount of not to exceed \$800,000 shall mature in amounts and on dates to be determined. The Supervisor, the chief fiscal officer of the Town, is hereby authorized to approve all details of the refunding financial plan not contained herein.

Section 4. The issuance of the Refunding Bonds will not exceed the Refunding Bond Amount Limitation. The Refunding Bonds shall mature not later than the maximum periods of probable usefulness (“PPU”) permitted by law at the time of original issuance of the Bonds to be Refunded, for the objects or purposes financed with the proceeds of the Bonds to be Refunded, commencing from the date of issuance of the first bond or bond anticipation note issued in anticipation of the sale of such bonds. The applicable period of probable usefulness for objects or purposes financed with the proceeds of the Bonds to be Refunded is 40 years.

Section 5. The aggregate amount of estimated Present Value Savings is set forth in the proposed refunding financial plan attached hereto as **Exhibit A**, computed in accordance with subdivision two of paragraph b of Section 90.10 of the Law. Said refunding financial plan has been prepared based upon the assumption that the Refunding Bonds will be issued in the aggregate principal amount, and will mature, be of such terms and bear such interest as set forth therein. The Town Board recognizes that the principal amount of the Refunding Bonds, the maturities, terms and interest rates, the provisions, if any, for the redemption thereof prior to maturity, and whether or not any or all of the Refunding Bonds will be insured, and the resulting present value savings, may vary from such assumptions and that the refunding financial plan may vary from that attached hereto as **Exhibit A**.

Section 6. The Refunding Bonds may be sold at public or private sale and, if the Refunding Bonds are sold at private sale, the Supervisor, as the chief fiscal officer of the Town, is hereby authorized to execute a purchase contract on behalf of the Town for the sale of said Refunding Bonds, provided that the terms and conditions of such sale shall be approved by the State Comptroller. If required by applicable law, prior to the issuance of the Refunding Bonds the Supervisor shall have filed with the Town Board a certificate approved by the State Comptroller setting forth the Present Value Savings to the Town resulting from the issuance of the Refunding Bonds. In connection with such sale, the Town authorizes the preparation of an Official Statement and approves its use in connection with such sale, and further consents to the distribution of a Preliminary Official Statement prior to the date said Official Statement is

distributed. In the event that the Refunding Bonds are sold at public sale pursuant to Section 57.00 of the Law, the Supervisor is hereby authorized and directed to prepare or have prepared a Notice of Sale, which shall be published in full or in summary at least once in "*The Bond Buyer*," published in the City of New York and/or the official newspaper of the Town having general circulation within said Town, not less than five (5) nor more than thirty (30) days prior to the date of said sale, in conformity with the requirements of Section 57.00 of the Local Finance Law and related regulations of the State Comptroller. The Supervisor is hereby further authorized and directed to take any and all actions necessary to accomplish said refunding, and to execute any contracts and agreements for the purchase of and payment for services rendered or to be rendered to the Town in connection with said refunding, including the preparation of the refunding financial plan referred to in Section 2 hereof.

Section 7. Each of the Refunding Bonds authorized by this resolution shall contain the recital of validity prescribed by Section 52.00 of the Law and said Refunding Bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the taxable real property within the Town without limitation as to rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said Refunding Bonds and provision shall be made annually in the budget of the Town for (a) the amortization and redemption of the Refunding Bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 8. Subject to the provisions of this resolution and of the Law, and pursuant to the provisions of Section 21.00 of the Law with respect to the issuance of bonds having substantially level or declining annual debt service, and Sections 50.00, 56.00 to 60.00, 90.10 and 168.00 of the Law, the powers and duties of the Town Board relative to determining the amount of Bonds To Be Refunded, prescribing the terms, form and contents and as to the sale and issuance of the Refunding Bonds, and executing any arbitrage certification relative thereto, and as to executing the Escrow Contract described in Section 10, the Official Statement referred to in Section 6 and any contracts for credit enhancements in connection with the issuance of the Refunding Bonds and any other certificates and agreements, and as to making elections to call in and redeem all or a portion of the Bonds to be Refunded, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 9. The validity of the Refunding Bonds authorized by this resolution 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 10. Prior to the issuance of the Refunding Bonds, the Town, if required by applicable law, shall contract with a bank or trust company located and authorized to do business in New York State, for the purpose of having such bank or trust company act as the Escrow Holder of the proceeds, inclusive of any premium from the sale of the Refunding Bonds, together with all income derived from the investment of such proceeds. Such Escrow Contract, if any, shall contain such terms and conditions as shall be necessary in order to accomplish the refunding financial plan, including provisions authorizing the Escrow Holder, without further authorization or direction from the Town, except as otherwise provided therein, (a) to make all required payments of principal, interest and redemption premiums, if any, to the appropriate paying agent with respect to the Bonds To Be Refunded, (b) to pay costs and expenses incidental to the issuance of the Refunding Bonds, including the development of the refunding financial plan, and costs and expenses relating to the execution and performance of the terms and conditions of the Escrow Contract and all of its fees and charges as the Escrow Holder, (c) at the appropriate time or times to cause to be given on behalf of the Town the notice of redemption authorized to be given pursuant to Section 13 hereof, and (d) to invest the monies held by it consistent with the provisions of the refunding financial plan. Any such Escrow Contract shall be irrevocable and shall constitute a covenant with the holders of the Refunding Bonds.

Section 11. If required by applicable law, the proceeds, inclusive of any premium, from the sale of the Refunding Bonds, immediately upon receipt shall be placed in escrow by the Town with the Escrow Holder in accordance with the Escrow Contract. All moneys held by such Escrow Holder shall be invested only in direct obligations of the United States of America or in obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, which obligations shall mature or be subject to

redemption at the option of the holder thereof not later than the respective dates when such moneys will be required to make payments in accordance with the refunding financial plan. Any such moneys remaining in the custody of the Escrow Holder after the full execution of the Escrow Contract shall be returned to the Town and shall be applied by the Town only to the payment of the principal of or interest on the Refunding Bonds then outstanding.

Section 12. That portion of such proceeds from the sale of the Refunding Bonds, together with interest earned thereon, which shall be required for the payment of the principal of and interest on the Bonds To Be Refunded, including any redemption premiums, if any, in accordance with the refunding financial plan, shall be irrevocably committed and pledged to such purpose and the holders of the Bonds To Be Refunded shall have a lien upon such moneys and the investments thereof held by the Escrow Holder. All interest earned from the investment of such moneys which is not required for such payment of principal of and interest on the Bonds To Be Refunded shall be irrevocably committed and pledged to the payment of the principal of and interest on the Refunding Bonds, or such portion or series thereof as shall be required by the refunding financial plan, and the holders of such Refunding Bonds shall have a lien upon such moneys held by the Escrow Holder. The pledges and liens provided for herein shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder shall immediately be subject thereto without any further act. Such pledges and liens shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Town irrespective of whether such parties have notice thereof. Neither this resolution, the Escrow Contract, nor any other instrument relating to such pledges and liens, need be filed or recorded.

Section 13. In accordance with the provisions of Section 53.00 and of paragraph h of Section 90.10 of the Law, the Town Board hereby elects to call in and redeem all or a portion of the Bonds To Be Refunded which are subject to prior redemption according to their terms on the Redemption Date, as shall be determined by the Supervisor in accordance with Section 8 hereof. The sum to be paid therefor on the applicable Redemption Date shall be the par value thereof, the accrued interest to such Redemption Date and the redemption premiums, if any. The Town is hereby authorized and directed to cause a notice of such call for redemption to be given in the name of the Town by mailing such notice not less than thirty (30) days nor more than sixty (60) days prior to such Redemption Date or at such other times as is agreed to by the

Town and the holder of the Bonds to be Refunded, and in accordance with the terms appearing in the Bonds to be Refunded, to the registered holders of the Bonds To Be Refunded which are to be called in and redeemed. Upon the issuance of the Refunding Bonds, the election to call in and redeem the Bonds To Be Refunded which are to be called in and redeemed in accordance herewith and the direction to cause notice thereof to be given as provided in this Section shall become irrevocable and the provisions of this Section shall constitute a covenant with the holders, from time to time, of the Refunding Bonds, provided that this Section may be amended from time to time as may be necessary to comply with the publication requirements of paragraph a of Section 53.00 of the Law, as the same may be amended from time to time.

Section 14. This bond resolution shall take effect immediately, and the First Deputy Town Clerk is hereby authorized and directed to publish the foregoing resolution, in summary, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in "*The Alden Advertiser*" a newspaper having general circulation in the Town and hereby designated the official newspaper of said Town for such publication.

* * *

The adoption of the foregoing resolution was seconded by Councilman Snyder and duly put to a vote on roll call, which resulted as follows:

AYES: Riddoch
Weber
Smith
Snyder
Cooke
NOES: None

The resolution was declared adopted.

EXHIBIT A

PROPOSED REFUNDING FINANCIAL PLAN

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

WHEREAS, the Alden Town Courtroom is in need of new chairs and tables in the courtroom;

WHEREAS, the Alden Town Court has noticed the need to increase security in the Court by adding a security buzzer for the door to the court offices and an intercom system so the Court Clerks can speak to persons on the other side of the glass door to the hallway;

WHEREAS, grant monies are available through the New York State Unified Court System to enhance the security and operation of municipal Justice Courts; and

WHEREAS, The Town Board after full and careful review and consideration of the need finds that it is in the public interest to authorize said grant application.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS, THAT:

1. Grantmakers Advantage, Inc., the Town's grant consultants, be authorized and directed to complete the necessary application, forms, etc. to be submitted to the New York State Unified Court System for the purpose of securing this grant,
2. The Supervisor and the Town Court Justices be and hereby are authorized and directed to execute all documents pertaining to the application and acquisition of said funding;
3. This Resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll call vote at a regular meeting on October 4, 2010, and was unanimously adopted.

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

WHEREAS, the Town Board of the Town of Alden (the "Town") has received information indicating that Town Employee Martin Dugan ("Employee") has not properly performed the duties of his role as Building Inspector and Code Enforcement Officer, and

WHEREAS, Civil Service Law section 75 requires that in certain circumstances a municipality is required to conduct a hearing prior to taking disciplinary action against certain protected classes of employees, and

WHEREAS, due to such civil service status, it would appear that the Employee is entitled to the protection of Civil Service Law section 75, and

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS THAT:

1. These disciplinary hearings will be conducted by Dr. Paul D. Fields; who is hereby appointed and authorized to conduct said future hearings.
2. This Resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on October 4, 2010, and was unanimously adopted.

UNFINISHED AND TABLED BUSINESS

Renaming of Reinhardt Road

