

The Regular Meeting of the Board of Trustees of the Village of Albion was held Wednesday, August 11, 2010 at 7:00 PM at the Village Council Chambers, 35-37 East Bank Street, Albion, New York.

Present were Mayor Dean A Theodorakos, Trustees Eileen S Banker, Fred Miller and Kevin P Sheehan.

Mayor Theodorakos opened the meeting with the pledge of allegiance at 7:00 PM.

PUBLIC HEARING

Mayor Theodorakos opened the Public Hearing at 7:00 PM to consider changes to Section 173-3 (C) of the Code of the Village of Albion regarding notice requirements for public hearings in relation to historic preservation.

Discussed changing the publication of the notice that a Public Hearing will be held, from 15 days to at least 10 days but not more than 20 days prior to the hearing. Also discussed was changing the wording regarding no building permits shall be issued from Building Inspector to Code Enforcement Officer.

PUBLIC HEARING CLOSED

Moved by Trustee Miller and seconded by Trustee Sheehan that in as much as everyone who wished to speak regarding changes to Section 173-3 (C) of the Code of the Village of Albion regarding notice requirements for public hearings were heard, the Public Hearing is hereby closed at 7:05 PM.

CARRIED

4 Ayes

0 Nays

LOCAL LAW ADOPTED

The following resolution was proposed by Trustee Miller who moved its adoption and seconded by Trustee Sheehan:

WHEREAS, a proposed Local Law #6 of the year 2010 for the purpose of changing notice requirements for public hearings in relation to historic preservation was presented to the Village of Albion Board of Trustees at a Regular Meeting of said Board held on July 14, 2010, and

WHEREAS, the Board of Trustees, at the Regular Meeting of said Board of Trustees held on July 14, 2010 did adopt a motion that a Public Hearing be held on aforesaid to propose amendment to the Local Law at 7:00 PM on Wednesday August 11, 2010, at the Village Council Chambers, 35-37 East Bank Street, Albion, New York, and that notice was published in the Batavia Daily Newspaper, the official newspaper of the Village of Albion, at least ten days before August 11, 2010, and

WHEREAS, a notice of such Public Hearing was duly published in the Batavia Daily Newspaper on the 28th day of July 2010, and

WHEREAS, a Public hearing on said proposed Local Law was held by the Board of Trustees of the Village of Albion at the Village Council Chambers, 35-37 East Bank Street, Albion, New York at 7:00 PM on Wednesday, August 11, 2010 at which time all were heard who wished to speak regarding said Local Law,

NOW THEREFORE BE IT RESOLVED, that the following law be hereby made part of the code of the Village of Albion, New York:

VILLAGE OF ALBION LOCAL LAW #6

CHAPTER 173-3

C. Notices of a proposed designation shall be sent by certified mail return receipt requested to the owner of the property proposed for designation, describing the property and announcing a public hearing by the Commission to consider the designation.

This Local Law shall become effective upon the filing of the same with the State of New York Secretary of State as required by law.

CARRIED

4 Ayes

0 Nays

RESIDENT

Resident, Ms Tami-Rose Martin addressed the Board of Trustees about her house at 65 Caroline Street. Ms Martin inquired if the investigation into her sewer problem is done, so she can decide what her next step will be. She feels that her sewer problem was caused by the Village of Albion. The Village of Albion code states that laterals are the responsibility of the home owner. She also made the accusation that the Mayor's cousin got his lateral fixed on West State Street in a timely matter. Mayor Theodorakos adamantly refuted that allegation. Mayor Theodorakos apologized for it taking so long. There will be a meeting before August 18, 2010 with Trustee Riley, Trustee Miller, Superintendent of Public Works, Dale Brooks and Tami-Rose Martin to go over all documentation.

PUBLIC HEARING

Mayor Theodorakos opened the Public Hearing at 7:15 regarding considering changes to Section 290-33 (D) of the Village Code by adding "general office complexes" to the special use permit category.

PUBLIC HEARING CLOSED

Moved by Trustee Miller and seconded by Trustee Sheehan that in as much as everyone who wished to speak regarding considering changes to Section 290-33 (D) of the Village Code by adding "general office complexes" to the special use permit category were heard, the Public Hearing is hereby closed at 7:21 PM.

CARRIED

4 Ayes

0 Nays

LOCAL LAW ADOPTED

The following resolution was proposed by Trustee Miller who moved its adoption and seconded by Trustee Sheehan:

WHEREAS, a proposed Local Law #7 of the year 2010 for the purpose of considering changes to Section 290-33 (D) of the Village Code by adding "general office complexes" to the special use permit category was presented to the Village of Albion Board of Trustees at a Regular Meeting of said Board held on July 14, 2010, and

WHEREAS, the Board of Trustees, at the Regular Meeting of said Board of Trustees held on July 14, 2010 did adopt a motion that a Public Hearing be held on aforesaid to propose amendment to the Local Law at 7:15 PM on Wednesday August 11, 2010, at the Village Council Chambers, 35-37 East Bank Street, Albion, New York, and that notice was published in the Batavia Daily Newspaper, the official newspaper of the Village of Albion, at least ten days before August 11, 2010, and

WHEREAS, a notice of such Public Hearing was duly published in the Batavia Daily Newspaper on the 31st day of July 2010, and

WHEREAS, a Public hearing on said proposed Local Law was held by the Board of Trustees of the Village of Albion at the Village Council Chambers, 35-37 East Bank Street, Albion, New York at 7:15 PM on Wednesday, August 11, 2010 at which time all were heard who wished to speak regarding said Local Law,

NOW THEREFORE BE IT RESOLVED, that the following law be hereby made part of the code of the Village of Albion, New York:

**VILLAGE OF ALBION
LOCAL LAW #7**

The following is to be added as a subcategory to section 290-33 (D)
(3) General Office Complexes

This Local Law shall become effective upon the filing of the same with the State of New York Secretary of State as required by law.

CARRIED

4 Ayes

0 Nays

RESIDENT

Resident, Ms Eileen Sorochty addressed the Board of Trustees about forgiving the penalty amount on her Village tax bill. She feels that the Board of Trustees should review how it is worded. Trustee Sheehan offered to pay the \$64.08 in late fees.

RESIDENT

Resident, Mr Eric Hess addressed the Board of Trustees about the gopher problem at his home on East State Street and complaints he has against the Code Enforcement Officer. The Village of Albion doesn't provide the service to trap wild animals and provided Mr Hess with two names of individuals in the area that provide nuisance animal service. On the complaints against Mr Vendetti, Mayor Theodorakos asked Mr Hess to put his complaints in writing. A meeting date was set for Friday, August 13, 2010 with Trustee Banker, Mr Vendetti and Mr Hess to review his complaints.

RESIDENT

Per Trustee Sheehan, Mr Larry Montello has requested the use of Bullard Park on September 24, 2010 for a car show.

Moved by Trustee Sheehan and seconded by Trustee Banker approving Mr Montello's request to use Bullard Park Friday, September 24, 2010 to hold a car show. The Recreation Director, Mr John Grillo has already been contacted about the event.

CARRIED

4 Ayes

0 Nays

DEPT HEAD

Water Treatment Plant Supervisor, Kevin Miller introduced Mr Brenden Diddlecmom, from ECS. He addressed the Board of Trustees about using their company as a second source of pricing for electric and natural gas rates. Discussion on how the Village of Albion now uses Chautauqua Energy and if the Village has a contract with them.

APPROVE MINUTES

Moved by Trustee Sheehan and seconded by Trustee Miller that in as much as each member received copies of the July 28, 2010 minutes and there being one correction or omissions, minutes are hereby approved as written with the following correction:

Page 1 under the closing of the first Public Hearing, the vote should be

4 Ayes

0 Nays

CARRIED

4 Ayes

0 Nays

ACCEPT TREASURERS REPORT

Moved by Trustee Sheehan and seconded by Trustee Banker accepting the Treasurer's Report for July 2010.

CARRIED

4 Ayes

0 Nays

APPROVE PAYMENT OF BILLS

Moved by Trustee Miller and seconded by Trustee Sheehan approving the payment of the following Village bills:

General Fund	voucher #6901	\$66,028.77
Water Fund	to # 7122	\$16,129.34
Sewer Fund		\$ 5,489.98

Trustee Miller would like bills regarding claims against the Village voted on separately. He stated that the Trustee auditing the bills for the month, would be the only one who would see it. The rest of the Board of Trustees agreed.

CARRIED

4 Ayes

0 Nays

APPROVED PAYMENT OF CHATFIELD BILLS

Tabled approving payment of the following bill submitted by Chatfield Engineers:

121 N Main Façade 08-888-8 \$ 1,212.50

Mayor Theodorakos will be meeting with Mr Chatfield on a different project and will discuss the façade project with him.

Moved by Trustee Sheehan and seconded by Trustee Miller approving the following bills submitted by Chatfield Engineers be paid:

McKinstry Street Storm Sewer/Rd Reconstruction	09-944-11	\$ 9,415.50
Meadowbrook Drive Road Reconstruction	09-952-8	\$ 5,881.00
Green Project Initiative	10-976-5	\$ 520.00
2007 Sanitary Sewer Improvements	06-765-35	\$ -0-

CARRIED

4 Ayes 0 Nays

APPROVE AMENDMENT OF AGREEMENT

Moved by Trustee Sheehan and seconded by Trustee Banker approving Mayor Theodorakos to sign the "Amendment to Owner-Engineer Agreement" for the Sanitary Sewer Project. The amended agreement is for additional engineering services for the Meadowbrook Drive Road Reconstruction Project in the amount of \$33,000.00.

CARRIED

4 Ayes 0 Nays

APPROVE PAYMENT TO BERNARD P DONEGAN INC

Moved by Trustee Sheehan and seconded by Trustee Miller approving payment to Bernard P Donegan, Inc for the following invoices:

Sewer Lines and Sewer Plant Projects	\$1,209.81
McKinstry St Storm Sewer/Road and Meadowbrook Water Project	\$4,717.14

CARRIED

4 Ayes 0 Nays

APPROVE PAYMENT TO SERGI

Moved by Trustee Sheehan and seconded by Trustee Miller approving Mayor Theodorakos to sign payrolls and the payment of Pay Estimate #14 for the Sanitary Sewer Project. The amount to be paid to Sergi Construction is \$123,662.49. The project is 73% completed as of July 30, 2010.

CARRIED

4 Ayes 0 Nays

APPROVE PAYMENT TO KEELER CONSTRUCTION

Moved by Trustee Miller and seconded by Trustee Sheehan approving Mayor Theodorakos to sign Pay Estimate #1 for the McKinstry Street Storm Sewer Project in the amount of \$151,278.48 to Keeler Construction. The project is 43% completed as of July 30, 2010.

CARRIED

4 Ayes 0 Nays

APPROVE CHANGE ORDER

Moved by Trustee Sheehan and seconded by Trustee Miller approving Mayor Theodorakos to sign Change Order #2 for the McKinstry Street Storm Sewer Project. The amount of the Change Order is \$10,000.00 and will cover the additional cost associated with the horizontal boring under East Avenue.

CARRIED

4 Ayes 0 Nays

APPROVE CEMETERY DEEDS:

Moved by Trustee Sheehan and seconded by Trustee Banker approving Mayor Theodorakos to sign the following Cemetery Deeds:

James H & Nancy A Carlin	S.G. 111A/B Veterans Companion
Leo C Murphy	Lot 573 Heath Path E#1
Thomas W & Marion G Levanduski	S.G. 112A/B Veterans Companion
Rodney L & Karen L Bryant	S.G. 482 Zephyr Avenue

CARRIED

4 Ayes

0 Nays

APPROVE FIRE DEPT MEMBERS

Moved by Trustee Sheehan and seconded by Trustee Banker accepting Steve H Papponetti and Jonathan L Dalle applications to be active members of the Albion Fire Department.

CARRIED

4 Ayes

0 Nays

LIQUOR LICENSE RENEWAL

Received notification from the Orleans Veterans Club, Inc with their intentions of renewing their liquor license at 39 Platt Street.

LIQUOR LICENSE RENEWAL

Received notification from the Crooked Door Tavern, LLC with their intentions of applying for their liquor license at 469 East State Street.

LEASE RENEWAL

Moved by Trustee Sheehan and seconded by Trustee Miller approving Mayor Theodorakos to sign the lease renewal for Bernard Baldwin for 121 North Main Street, Suite 240. The term of the lease will be from September 1, 2010 through September 1, 2011 with no changes.

CARRIED

3 Ayes

0 Nays

Trustee Sheehan

Trustee Miller

1 Abstained

Mayor Theodorakos Trustee Banker

REQUEST

Moved by Trustee Sheehan and seconded by Trustee Banker approving the request received from the Lord's House Church of God in Christ to hold a tent meeting on Village property located between the Presbyterian Church and 19 North Main Street. The meetings will be held on Thursday, August 26, 2010 through Saturday, August 28, 2010 from 7:00 PM to approximately 9:30 PM.

Village Clerk will inform the Albion Police Department that the event will be taking place.

CARRIED

4 Ayes

0 Nays

VILLAGE/TOWN PARK AGREEMENT

Tabled approving the Mayor to sign the "Inter-municipal Agreement Parks and Recreation" with the Town of Albion as submitted by Attorney Gavenda. The Town of Albion will contribute an annual amount to assist the Village of Albion in defraing the cost of capital improvements of the parks. Trustee Miller would like to talk to Recreation Director, Mr John Grillo to get his opinion on the agreement.

FENCE LICENSE AGREEMENT

Moved by Trustee Sheehan and seconded by Trustee Banker approving Mayor Theodorakos to sign the License Agreement with David B and Karen Snell for 308 Ingersoll Street. The fence located at that property is partial located in the Village of Albion's right-of-way. The Village of Albion issued a License Agreement in 1995 with regard to a garage that encroaches upon the Village property at that address.

CARRIED

3 Ayes	1 Nay
Trustee Sheehan	Trustee Miller
Trustee Banker	
Mayor Theodorakos	

Trustee Miller stated that he would like to see a time limit set in the agreement.

RESOLUTION LICENSE AGREEMENT

The following resolution was proposed by Trustee Sheehan who moved its adoption and seconded by Trustee Banker regarding the License Agreement with David B and Karen Snell for 308 Ingersoll Street:

WHEREAS, the Village of Albion received a request to grant a License Agreement for a fence to David B. and Karen Snell who reside at 308 Ingersoll Street in the Village of Albion; and

WHEREAS, the Village of Albion DPW Supervisor and Code Enforcement Officer have ensured there is no encroachment on water/sewer lines or other public services; and

WHEREAS, the Village of Albion issued a License Agreement in 1995 with regard to a garage that encroaches upon the Village property.

NOW THEREFORE BE IT RESOLVED, that the Village Board of the Village of Albion hereby agrees to grant a License Agreement to David B. and Karen Snell, their successors and or assigns:

1. Providing that the portion of the fence now partially situate on the premises owned by the VILLAGE OF ALBION as shown on attached survey, remains in its present location and SNELLS, Snell's successors and/or assigns are solely liable to maintain the fence and the lands contained by the fence.
2. Providing that so long as the fence remains in its present location, shown on the said survey, the SNELLS, their successors and/or assigns use the fence for its usual and customary purposes.
3. Providing that the SNELLS and their successors and/or assigns agree to make no claim for ownership or other interest in that portion of the premises owned by the VILLAGE OF ALBION on which the fence is situated.
4. Providing that in the event SNELLS or their successors or assigns ever enlarge, remove, relocate or replace the fence, or if the same is substantially damaged by fire or other cause the license hereby granted covering the fence encroachment will cease and expire.
5. Providing the SNELLS, their heirs, successors and/or assigns agree to forever indemnify, defend and hold harmless the VILLAGE OF ALBION and their successors and assigns from any liability to, claim of damage to or action by any person for death of, injury to or damage to any person or property in any manner arising, directly or indirectly, from the existence or exercise of rights granted under this Agreement, on which the fence is presently located, except as such death, injury or damage is caused by the negligent action of the VILLAGE OF ALBION or their successors and assigns. The existence of the fence encroachment shall not be deemed a negligent action of the VILLAGE OF ALBION.

BE IT FURTHER RESOLVED, that with finding that the public rights of access are not significantly compromised by license, Dean Theodorakos, Mayor of the Village of Albion is hereby authorized to sign said License Agreement.

CARRIED

3 Ayes
Trustee Sheehan
Trustee Banker
Mayor Theodorakos

1 Nay
Trustee Miller

TRANSFER OF FUNDS

Moved by Trustee Sheehan and seconded by Trustee Banker approving the Fire Department's request to transfer \$1,500.00 from A3410.0429-telephone to A3410.409-repair to small equipment. Mr Harry Papponetti provided the Board of Trustees with a list of small equipment repairs that will get paid out of that line item.

CARRIED

4 Ayes
0 Nays

TRANSFER OF FUNDS

Tabled approving the Recreation Director, Mr John Grillo's request to transfer \$198.00 from A7310.0405, park supplies to A7310.0201, park equipment. Money will be used to purchase a new grill. Trustee Miller will discuss with Mr Grillo.

EXECUTIVE SESSION

Moved by Trustee Banker and seconded by Trustee Sheehan to adjourn to executive session for pending legal litigation at 8:52 PM.

CARRIED

4 Ayes
0 Nays

Attorney Gavenda entered meeting at 8:58 PM.

EXECUTIVE SESSION CLOSED

Moved by Trustee Banker and seconded by Trustee Miller to come out of executive session at 9:37 PM.

CARRIED

4 Ayes
0 Nays

FORGIVE WATER/SEWER BILL

Moved by Trustee Banker and seconded by Trustee Miller forgiving the water/sewer bill for 65 Caroline Street because of the ongoing situation that is being investigated. The billing period is April 1, 2010 through June 30, 2010. It was stated that forgiving the water/sewer bill, doesn't mean the Village is taking responsibility for the problem.

CARRIED

3 Ayes
Trustee Banker
Trustee Miller
Mayor Theodorakos

1 Nay
Trustee Sheehan

MEETING CLOSED

Moved by Trustee Sheehan and second by Trustee Miller that there being no further business, meeting is hereby adjourned at 9:40 PM.

CARRIED

4 Ayes
0 Nays

Respectfully submitted,

Linda K Babcock
Linda K Babcock
Clerk-Treasurer