

A Workshop Meeting of the Board of Trustees of the Village of Albion was held Wednesday, January 27, 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, Jeannette Riley, Kevin P Sheehan and Attorney John Gavenda.

Mayor Theodorakos opened the meeting with the pledge of allegiance.

**PUBLIC
HEARING**

Mayor Theodorakos opened the Public Hearing at 7:00 PM to establish a Local Law wherein the Village of Albion would be obligated to indemnify and hold harmless by providing any employee of the Village a legal defense in any judicial, quasijudicial administrative proceeding under either federal or state law including but not limited to criminal and civil court proceedings and administrative proceedings.

Attorney Gavenda informed the Board of Trustees that this Local Law would cover anyone acting on the Village's behalf.

**PUBLIC
CLOSED**

Moved by Trustee Riley and second by Trustee Banker that in as much as everyone who wished to speak regarding establishing a Local Law wherein the Village of Albion would be obligated to indemnify and hold harmless by providing any employee of the Village a legal defense in any judicial, quasijudicial administrative proceeding under either federal or state law including but not limited to criminal and civil court proceedings and administrative proceeding were heard the Public Hearing is hereby closed at 7:03 PM.

CARRIED

5 Ayes

0 Nays

RESOLUTION The following resolution was proposed by Trustee Riley who moved its **ADOPTED** adoption and seconded by Trustee Sheehan:

WHEREAS, the Village of Albion today, January 27, 2010 adopted Local Law No. 1 of 2010 entitled "Indemnification of Village Employees"; and

WHEREAS, the Village of Albion has by way of the aforementioned local law guaranteed indemnification of village employees as defined in the aforementioned local law; and

WHEREAS, the Village of Albion had been encouraged by its insurance agent, Albion Agencies in the distant past to adopt a local law wherein the Village of Albion agreed to indemnify its employees but the local law was never adopted; and

WHEREAS, several Notice of Claims have been filed against the Village of Albion and/or its employees prior to today, January 27, 2010; and

WHEREAS, the Village of Albion recognizes its past, present and future obligation to indemnify its employees and cover the expenses incurred in defending its employees from any judicial, quasi-judicial, or administrative proceeding under federal or state law including but not limited to civil and criminal proceedings and administrative proceedings arising out of any alleged act or omission which occurred while the employee was acting or in good faith purporting to act within the scope of his or her public employment duties, prior to the enactment of Local Law No. 1 for 2010.

NOW, THEREFORE BE IT RESOLVED, that the Village of Albion hereby will indemnify and provide legal counsel to any of its employees who may be or are the subject of any judicial, quasi-judicial or administrative proceeding under either state or federal law including but not limited to civil and criminal court proceedings and administrative proceedings initiated prior to the enactment of Local Law No. 1 of 2010 entitled Indemnification of Employees; and it be it further

RESOLVED, that the Village of Albion will provide the same indemnification as is set forth in the aforementioned Local Law No. 1 of 2010 for any action commenced or threatened to be commenced against a Village employee prior to January 27, 2010;

VILLAGE OF ALBION
LOCAL LAW #1, 2010

INDEMNIFICATION OF VILLAGE EMPLOYEES

As used in this chapter, unless the context otherwise requires, the following terms shall have the meanings indicated:

ACTION

Any judicial or quasi judicial or administrative proceeding under either federal or state law, including but not limited to civil and criminal court proceedings and administrative proceedings. This definition shall not extend to actions commenced by the Village against the employee.

EMPLOYEE

Any person holding a position by election, appointment or employment in the service of the Village, but not including a volunteer, any person not compensated for his services, or an independent contractor. The term "employee" shall include a former employee, his or her estate or judicially appointed representative.

VILLAGE

The Village of Albion, County of Orleans and State of New York.

- A. Legal defense of employees. Upon compliance by the employee with provisions of § ___ the Village shall provide for the defense of the employee in any action arising out of any alleged act or omission which occurred or is alleged to have occurred while the employee was acting or in good faith purporting to act within the scope of his public employment or duties. Such defense shall not be provided where such action or proceeding is brought by or on behalf of the Village.
- B. Representation by attorney; fees.
- (1) Subject to the conditions set forth in this chapter, the employee shall be represented by the Village Attorney or an attorney employed or retained by the Village for the defense of the employee. The Village Board shall employ or retain an attorney for the defense of the employee whenever:
- a. The Village does not have a Village Attorney; or
 - b. The Village Board determines, based upon its investigation and review of the facts and circumstances of the case, that representation by the Village Attorney would be inappropriate; or
 - c. A court of competent jurisdiction determines that a conflict of interest exists and that the employee cannot be represented by the Village Attorney.

(2) Reasonable attorney's fees and litigation expenses shall be paid by the Village to such attorney employed or retained, from time to time, during the pendency of the action or proceeding, subject to certification by the Village Mayor that the employee is entitled to representation under the terms and conditions of this chapter. Payment of such fees and expenses shall be made in the same manner as payment of other claims and expenses of the Village. Any dispute with respect to representation of multiple employees by the Village Attorney or by an attorney employed or retained for such purposes or with respect to the amount of the fees or expenses shall be resolved by the court.

C. Provision of defense. Where the employee delivers process and a request for a defense to the Village Attorney or the Village Mayor, as required by §____, the Village Attorney or the Village Mayor, as the case may be, shall take the necessary steps, including the retention of an attorney under the terms and conditions provided in Subsection B on behalf of the employee to avoid entry of a default judgment, pending resolution of any question relating to the obligation of the Village to provide a defense.

A. The duties to defend provided in this chapter shall be contingent upon:

1. Delivery to the Village Attorney or, if none, to the Village Mayor of the original or a copy of any summons, complaint, process, notice, demand or pleading within five (5) days after he is served with such document; and

2. The full cooperation of the employee in the defense of the action or proceeding and defense of any action or proceeding against the Village based upon the same act or omission, and in the prosecution of any appeal.

B. Such delivery as provided for in subsection _____ shall be deemed a request by the employee that the Village provide for his defense pursuant to this chapter unless the employee shall state in writing that a defense is not requested.

The benefits of this chapter will inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party, nor shall any provision of this chapter be construed to affect, alter or repeal any provisions of the Workers' Compensation Law.

The benefits of this chapter shall be extended to an employee who is a member of a negotiating unit for which an agreement has been negotiated pursuant to Civil Service Law, Article 14, only if such agreement expressly so provides.

The provisions of this chapter shall not be construed to impair, alter limit or modify the rights and obligations of any insurer under any policy of insurance.

Except as otherwise specifically provided in this chapter, the provisions of this chapter shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the Village or any right to defense provided for any governmental officer or employee by, in accordance with or by reason of any other provision of state or federal statutory or common law.

The provisions of this chapter shall apply to all actions and proceedings specified herein which have been commenced, instituted or brought on or after the effective date of this chapter.

CARRIED

5 Ayes

0 Nays

AMSA President Maarit Vaga, Vice President Sue Starkweather and Main Street Manager Katelin Olson did a presentation to the Board of Trustees on the Albion Main Street Alliance (AMSA). AMSA is a group of volunteer citizens who want to revitalize Albion. The following points were discussed:

The Four Point Approach, which is Organization, Promotion, Design and Economic Restructuring

AMSA's successes which include: Beautification Projects, Canal Park Improvements, Community Events and First Fridays

Trustee Riley left the meeting at 7:40 PM.

Mayor Theodorakos thanked the AMSA members for coming in.

APPROVED MINUTES Moved by Trustee Sheehan and seconded by Trustee Banker that in as much as each member received copies of the December 23, 2009, January 6, 2010, January 13, 2010 and January 23, 2010 minutes and there being two errors, additions and/or corrections, minutes are hereby accepted as written with the following corrections/additions:

January 13, 2010 Page 2 - under approved payment to Sergi, Trustee Banker seconded the motion, not Trustee Sheehan

January 6, 2010 Page 2 - under discussion with Code Enforcement Officer, Trustee Sheehan wants added that Code Enforcement Officer Ron Vendetti stated he wants to re-coup his attorney's fees which were around \$60,000 which could be buried in his salary over six years. This would also end all future litigations. Mayor Theodorakos stated that there was a lot of discussion that night.

CARRIED

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

Trustee Miller stated his nay vote was because not everything that happened at the meeting was put in the minutes.

TABLED PAYMENT OF CHATFIELD Tabled approving the following bill submitted by Chatfield Engineers until the February 10, 2010 Regular Board Meeting.

BILL 121 North Main Street 08-888-6 \$ 432.50

FIRE DEPT CELL BILL Trustee Miller questioned the Fire Department's current cell phone bill. He stated about a year ago the Board of Trustees addressed the cell phones paid by the Village and switch the users to a stipend except for the Fire Department. At that time the bills were about \$200.00 per month. Now the bill is around \$250.00 per month. Tabled the discussion on the Fire Department's monthly cell phone bill. Mayor Theodorakos and Trustee Banker will be meeting with Fire Chief Eric Bradshaw on Friday, January 29, 2010 and will discuss the bill with him.

CHANGE PUBLIC HEARING DATE Moved by Trustee Banker and seconded by Trustee Miller changing the second Public Hearing date for the 2010 New York State Community Development Block Grant Program from Wednesday, February 24, 2010 at 7:00 PM to Wednesday, March 10, 2010 at 7:00 PM.

CARRIED

4 Ayes	0 Nays
--------	--------

SPECIAL MEETING Moved by Trustee Banker and seconded by Trustee Miller approving to hold a Special Board Meeting on Saturday, February 6, 2010 at 1:15 PM to discuss the Managerial Agreement which expired May 31, 2009.

CARRIED

4 Ayes

0 Nays

INCOME SURVEY There was a discussion on the income survey for outside Village sewer users. Stuart I Brown Associates will do the survey for free. The survey will need to be done if the Board of Trustees decides to reapply for the NYS Community Development Block Grant (CDBG) Program. Last year the Village was denied their application which would have been used for upgrades at the Pollution Control Plant. The Board of Trustees will have two Public Hearings. The first one on February 10, 2010 at 7:00 PM and the second one on March 10, 2010 at 7:00 PM to discuss and provide residents with information on the CDBG Program which can be used for infrastructure improvements or for housing.

Moved by Trustee Banker and seconded by Trustee Miller approving Stuart I Brown Associates to handle the income survey, providing it doesn't obligate the Village in anyway.

CARRIED

4 Ayes

0 Nays

RESOLUTION YOUTH PROGRAM The following resolution was proposed by Trustee Miller who moved its adoption and seconded by Trustee Banker:

WHEREAS, for a number of years, the Village of Albion participated in and funded the activities of the Youth Recreation Program, and

WHEREAS, the accounting and bookkeeping requirements have resulted in the Village of Albion becoming the administrative body for the activities of the Youth Recreation Program through the collection and disbursement of monies for the payment of invoices, assuming responsibility for employee payroll and the handling of other accounting and administrative responsibilities,

NOW THEREFORE BE IT RESOLVED, that the Village of Albion agrees to participate in the Youth Recreation Program for the Year 2010 and agrees to be responsible for paying funds toward the operation of the programs planned, and has budgeted funding for such, as it has in the past.

CARRIED

4 Ayes

0 Nays

ELECTION INSPECTORS Moved by Trustee Sheehan and seconded by Trustee Miller appointing the following residents as Election Inspectors for the upcoming Village Election to be held Tuesday, March 16, 2010.

Charlene Bloom
Judy Seever

Inda McFarland
E Jean Smith

CARRIED

4 Ayes

0 Nays

ANIMAL CONTROL AGREEMENT Moved by Trustee Sheehan and seconded by Trustee Miller approving Mayor Theodorakos to sign the agreement with Orleans County regarding the sheltering and fees for animal control. Orleans County will charge the Village of Albion \$5.00 per day for dogs and \$3.00 per day for cats.

CARRIED

4 Ayes

0 Nays

TOWN OF ALBION FIRE CONTRACT Moved by Trustee Sheehan and seconded by Trustee Miller approving Attorney Gavenda to do the contract for the Fire Contract Money due from the Town of Albion with a 3% increase.

CARRIED

4 Ayes

0 Nays

RESIDENT Resident Joe Martillotta addressed the Board of Trustees with his concerns regarding parking at the building he just purchased at 469 East State Street. Also discussed was how he should determine when the business was officially closed.

ATTORNEY REQUEST Moved by Trustee Sheehan and seconded by Trustee Miller approving Attorney Gavenda's request to have the Village Clerk-Treasurer, Linda Babcock sign the affidavit for the property at 340 Childs Street stating that there are no outstanding real property taxes due to the Village of Albion. Also approved Mayor Theodorakos to sign the "Quit Claim Deed" for the same parcel.

CARRIED

4 Ayes

0 Nays

EMPLOYEE REQUEST Tabled approving Officer O'Hearn's request for his dependent to be covered under the Village of Albion's cobra policy. If approved the dependent will be responsible for the total premium. Attorney Gavenda will check into the request and have details for the February 10, 2010 Workshop Meeting.

MEETING CLOSED Moved by Trustee Miller and seconded by Trustee Sheehan that there being no further business, meeting is hereby adjourned at 8:59 PM.

CARRIED

4 Ayes

0 Nays

Respectfully Submitted,

Linda K Babcock
Linda K Babcock
Clerk-Treasurer