

Town Board Meeting February 12, 2024

Supv. Crossen called the monthly meeting of the Alabama Town Board to order at 7:00 p.m. Roll Call was taken, Councilperson J. Klotzbach, Veazey, D. Klotzbach, Fisher and Supv. Crossen were present. Also present were Supt. Covell, Attorney Boylan, Sharon Lindsley and Brian Richardson.

Supv. Crossen read the following statement: Councilperson Dianne Klotzbach has informed me of a conflict with STAMP. Councilperson D. Klotzbach will not participate anytime the issue is discussed and simply vote 'present' on any vote taken.

Privilege of the Floor

Sharon Lindsley – asked what is the status at 7047 Maple Rd. Supv. Crossen answered that they have until Feb. 16th to clean it up, if not the CEO/ZEO will get a court date. Disc. held on trailer/vehicles parked into the ROW. Several tickets have been issued. The Town Board asked the Highway Supt. to have anything parked in the right-of-way towed.

Highway – Supt. Covell gave update:

Had a couple weeks of snow which moved to flooding on a couple of roads.

Pot holes fixed on a few roads.

Equipment repairs/upgrade caught up during the break from snow.

Auctions International – sold both sets of tires and sander for pick up. No bids on two harder sanders. Supt. Covell asked for permission to scrap them.

MOTION by Councilperson Veazey, seconded by Supv. Crossen to allow Supt. Covell to scrap the two harder sanders. Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

STAMP – Nothing new.

Edwards Vacuum consulting with the Nation, as part of their process.

Plug Power Substation – working on it.

Water District #2 – nothing new

Executive Session

MOTION by Councilperson J. Klotzbach, seconded by Councilperson Veazey to go into executive session at 7:20 p.m. to discuss matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation; and/or Negotiations and updates subject to NDAs regarding the IZA; and/or Negotiations regarding the Teamsters Contract with Attorney Boylan. Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Councilperson D. Klotzbach left the executive session at 7:30 p.m.

MOTION by Councilperson J. Klotzbach, seconded by Councilperson Fisher to come out of executive session at 7:46 p.m. Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Court – audit scheduled for Sat., Feb. 17th.

Town Hall – nothing new

Solar Law Update

MOTION by Councilperson J. Klotzbach, seconded by Councilperson Fisher to have a work session meeting on Monday, March 25, 2024 at 7:00 p.m. to discuss the solar law. Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Union Contract – working on draft copy with Union.

AFD Member Approvals

MOTION by Councilperson Veazey, seconded by Councilperson J. Klotzbach to approve the members of the Alabama Fire Dept. as listed:

John Summers, Oakfield, NY	Active Fire
Melanie Nichols, Oakfield, NY	Social
Alexander Summers, Oakfield, NY	Active Fire
Nicky Stefanski, Oakfield, NY	Social
Colleen Nelson, Basom, NY	Social
Elizabeth Crossen, Churchville, NY	Social
Rebecca Scroger, Oakfield, NY	Social
Aaron Giese, Batavia, NY	Social
David Schnaufer, III, Basom, NY	Active Fire
James Nichols, Oakfield, NY	Active Fire
Aaron Belluscio, Batavia, NY	Active Fire
Bonnie Woodward, Oakfield, NY	Social
Lori Coughlin, Elba, NY	Social

Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Plug Power Letter of Default

Plug Power has not paid their PILOT and Host Community Investment payments that were due on January 1st. Disc. held.

Certified Return Receipt
Electronic Mail

February 12, 2024

Plug Project Holding Co., LLC
c/o Plug Power Inc.
968 Albany Shaker Road
Latham, NY 12110
Attention: Jerry Kahil

RE: Notice of Default Plug Power Holding Co., LLC

Town of Alabama \$42,805.00 PILOT and \$178,000.00 Host Community Investment Agreement

Dear Jerry Kahil:

On November 13, 2023 the Town of Alabama sent an invoice reminding Plug Power Holding Co., LLC that the annual PILOT and Host Community Investment Agreement year 2 payments were due by January 1, 2024. To date these payments have not been received. Failure to remit these payments to the Town of Alabama constitutes an Event of Default.

The Town requests that the payments be remitted immediately. The Town of Alabama reserves all rights these agreements afford.

Sincerely,

Robert Crossen
Alabama Town Supervisor

cc: Gerard L. Conway, Jr., Esq.,
Mark Boylan, Esq.
Mark Masse, GCEDC
Russel E. Gaenzle, Esq.

MOTION by Councilperson Fisher, seconded by Councilperson Veazey to allow Supv. Crossen to sign the letter of default and send it to Plug Power. Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – present C. Veazey – yes Supv. Crossen – yes

Wendel Engineering Contract

Supv. Crossen informed the Board that Wendel is charging the same rates as it did in 2023.

TOWN/MUNICIPAL AGREEMENT THIS AGREEMENT made this 8th day of January, 2024, by and between the Town of Alabama, a municipal corporation hereinafter referred to as the TOWN, and Wendel WD Architecture, Engineering, Surveying & Landscape Architecture, P.C., hereinafter referred to as WENDEL.

W I T N E S S E T H WHEREAS, the TOWN desires to have annual engineering services performed for it to meet its day to day requirements, and

WHEREAS, WENDEL is an engineering firm duly licensed in New York State and has offered to perform the services hereinafter set forth.

Now, therefore, in consideration of the mutual covenants and agreements herein contained, the TOWN and WENDEL do hereby agree as follows:

1. During the term of this Agreement, WENDEL agrees to furnish the following engineering and planning services for the TOWN:

a. Be represented by the designated qualified person at Town Board meetings or such other meetings determined by the TOWN, and review minutes of any or all meetings as designated by the TOWN. Research topics for presentation at Board meetings as directed by the TOWN.

b. Attend Planning Board and Zoning Board of Appeals meetings as necessary and consult for site plan review.

c. Provide consultation for SEQR proceedings for Unlisted & Type I actions (not requiring an Environmental Impact Statement), as defined by said proceedings.

d. Perform engineering support services for minor projects being led and coordinated by the TOWN, and which do not normally require regulatory agency approvals. These engineering services are intended to include but not limited to the preparation of preliminary reports which detail the scope of needed services, engineering sketches, review of draft specifications, necessary conferences with the TOWN, consultation during construction, and such other engineering services as may be required in order

to enable the completion of the project in a manner contemplated by the TOWN, generally with TOWN work forces.

e. Provide the TOWN, its departments, boards, commissions, agents and employees, general municipal engineering services during normal working hours. Normal working hours are defined as between the hours of 8:00 A.M. and 5:00 P.M. General engineering services shall normally not require WENDEL to be present in the TOWN.

f. Attend information meetings of Federal, State and County agencies designated by WENDEL and alert the TOWN to events and/or decisions that may affect the TOWN.

g. Follow aid programs and advise the TOWN of programs that may be of benefit to the TOWN.

h. Provide assistance with grant applications and supporting documentation as requested by the Town.

i. Provide design or consultation for regulatory agency approvals of actions or projects, design of capital improvements for public bid or bid in accordance with the Town procurement policy if public bids are not required.

j. Attend Public Information meetings, Regulatory meetings, or other specific purpose meetings, requiring the presence or input of the engineer as determined by the Town.

k. Provide engineering feasibility reports, studies, schematic designs for the operation, maintenance or improvement of Town infrastructure, including preventive maintenance consultation.

l. Provide engineering expertise for the Town to support negotiation of contracts identified by the Town and Town Attorney.

m. Consultation for SEQR proceedings for actions requiring an Environmental Impact Statement as defined by said proceedings.

n. Review of developer proposals.

o. Design of capital improvements for public bid.

p. Preparation of aid applications.

q. Perform Public Improvement Project Plan review and inspections as necessary.

r. Provide professional design or consultation services such as, but not necessarily limited to civil, environmental, mechanical, electrical and structural engineering, architecture, land surveying, planning, geographic information systems, energy management, or other such services desired by the TOWN and able to be provided by WENDEL

s. Provide consultation and design services for parks, highway, drainage and building improvements as identified by the TOWN.

t. Design, Survey, and Construction Services associated with Locally Administered Federal Aid Projects.

u. Provide engineering services during construction as requested by the TOWN.

v. Additional meetings as requested by the TOWN.

2. WENDEL shall complete Items a through v on a time and expense basis with authorization of the TOWN when a specific scope can be identified.

3. This Agreement shall become effective as of the 1st day of January 2024 and terminate the 31st day of December, 2024.

4. It is understood and agreed that all records, data and maps shall become the property of the TOWN but that WENDEL may keep such records at their place of business to facilitate the performance of the services to be rendered hereunder. WENDEL shall deliver such records to the TOWN as it may request and upon payment of current amounts due under this Agreement. Design drawings and specifications are not included under this section. Ownership of design drawings and specifications are covered under Appendix A of this Agreement.

5. It is further understood and agreed that all data pertaining to any existing systems or proposed systems and their operations shall be made available to WENDEL as the same may be in the physical control of the TOWN.

6. WENDEL states that our work will conform to generally accepted engineering principles and to the best of our professional knowledge and belief will comply with all State, Federal and Local Laws, and we make no other warranty, guarantee or certification either expressed or implied.

7. WENDEL agrees to hold harmless and to indemnify the Owner against any liability arising only out of the negligent acts, errors, or omissions of WENDEL. This indemnification, however, does not include liability arising out of claims relating to asbestos or hazardous waste. Nothing in this agreement shall impose liability on WENDEL for claims, lawsuits, expenses or damages arising from, or in any manner related to, the exposure to, or the handling, manufacture or disposal of, asbestos, asbestos products, or hazardous waste in any of its various forms, as defined by the EPA.

8. WENDEL, and its individual representatives, when acting as the Town Engineer, and acting in good faith in the discharge of the TOWN's duties, shall not be rendered liable for and are relieved from all liability for any damage that may accrue to persons or property by reason of any act or omission by WENDEL in the discharge by WENDEL of the TOWN's duties. Any suit brought against WENDEL because of the acts or omissions by WENDEL in the enforcement of any provisions of the codes, laws, standards, statutes, and/or regulations shall be defended by the TOWN until final termination of the proceedings. WENDEL, and its individual representatives, shall be entitled to all defenses and municipal immunities that are, or would be, available to the TOWN if the same services were provided by the TOWN employees, as permitted by law.

9. This Agreement is subject to the general terms and conditions as listed on Attachment A enclosed and made part of this Agreement. IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first above written.

Town of Alabama By: Robert Crossen, Town of Alabama Supervisor

MOTION by Councilperson Fisher, seconded by Councilperson Veazey to accept the 2024 Retainer Contract from Wendel for engineering services and have Supv. Crossen sign it. Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Fruit Fly Program

USDA has asked for permission to put European fruit fly traps in the right-of-way on Town Roads.

MOTION by Councilperson J. Klotzbach, seconded by Councilperson Fisher to allow the USDA to put European Fruit Fly traps the right-of-way on Town Roads. Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Board of Assessment Review

MOTION by Councilperson Veazey, seconded by Supv. Crossen to appoint Anthony Mudrzynski to the Board of Assessment Review. Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Town Justice Position

Supv. Crossen spoke with the Board of Elections, can not appoint a new justice until the current justice leaves. The last court date for Jeff Tauscher is March 5th. It might be possible to have him formally resign then so that the Board can appoint a new judge at the March meeting. Disc. held.

Mark Williams has submitted a letter of interest and resume for the Justice position. The Court Committee will interview him.

2024 Budget

Plug Power is delinquent in their PILOT and Host Community Agreement payments. Plug Power has asked for an extension to June 1st to pay. We will need to hold off on some budget items, \$42,000 was included in the General Fund budget and \$178,000 in the Highway Budget as income.

Supv. Crossen says they will hold off on extra Sheriff patrols, Supv./Highway Secretary and putting funds into the Capital Reserve (Highway). Supt. Covell said he can work on CHIPS funded road work for now. Will wait to see where we are with Plug Power funds before doing other road work. Supv. Crossen stated that the County and EDC are willing to wait for their payments so the Town gets paid first. Disc. held.

Approval of Minutes

1/8/2024 Board Meeting – MOTION by Councilperson J. Klotzbach, seconded by Supv. Crossen to accept minutes as presented. Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Supervisors Report

2/5/2024 -- MOTION by Councilperson Veazey, seconded by Councilperson Fisher to accept report as written. Approved by Roll Call Vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Audit Bills

MOTION by Councilperson Fisher, seconded by Supv. Crossen to accept Abstract #002-2024 and pay bills in the amount of \$54,638.45 vouchers 31 to 52 General Fund; \$17,955.76 vouchers 20 to 40 Highway Fund; \$105,876.00 voucher 3 Alabama Fire Protection District; \$9,802.91 voucher 4 E. Pembroke Fire District; \$3,141.71 vouchers 5 to 9 Water District 1. Approved by Roll Call Vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

2023 Accrual Transfers

MOTION by Councilperson Fisher, seconded by Councilperson J. Klotzbach to make the following 2023 Accrual Transfers:

- \$ 632.64 from A1110.42 to A1110.43
- \$ 480.00 from A1990.4 to A1440.4
- \$ 7.08 from A1990.4 to A1420.42
- \$4,637.50 from A1990.4 to A1420.42
- \$ 55.16 from A5010.41 to A5010.4

Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Town Clerk’s Report

January 2024 -- MOTION by Councilperson J. Klotzbach, seconded by Councilperson Veazey to accept report as written. Approved by Roll Call Vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Assessor’s Report

Equalization Report from NYS -- MOTION by Councilperson Veazey, seconded by Supv. Crossen to accept report as written. Approved by Roll Call Vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

CEO/ZEO Report

January 2024 -- MOTION by Councilperson Fisher, seconded by Councilperson Veazey, to accept report as written. Approved by Roll Call Vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Tompkins Insurance Quote

Town Insurance through Tompkins will increase 8.23% from 2023. Disc. held.

MOTION by Councilperson Fisher, seconded by Councilperson Veazey to accept the quote for Town Insurance from Tompkins Insurance and allow Supv. Crossen to sign it. Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

MOTION by Councilperson Fisher, seconded by Councilperson Veazey to adjourn meeting at 8:18 p.m. Approved by roll call vote:

C. Fisher – yes C. J. Klotzbach – yes C. D. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Respectfully Submitted,

Rebecca L. Borkholder
Town Clerk