

10-8-2015 – PUBLIC HEARING ON LL #2-2015 – TAX CAP OVERRIDE LAW

Present:

Councilman Cheryl L. Earl
Councilman Leonard R. Hochadel
Councilman David L. Montgomery
Councilman Douglas J. Morrell
Supervisor Beverly A. Gambino

Also Present:

Attorney for the Town David DiMatteo
Highway Superintendent Donald Hopkins
Town Clerk Betsy A. Marsh
6 guests

The Sardinia Town Board held a Public Hearing on October 8, 2015 at the Sardinia Town Hall, for the purpose of hearing comments on proposed Local Law #2 of 2015, a Local Law to override the Tax Levy Limit established in General Municipal Law, Section 3-c. The Supervisor called the Hearing to order at 6:15 PM, with the Pledge to the Flag, led by Veteran Hans Ylmar, and a moment of silence.

Supervisor Gambino read the Legal ad as it had appeared in Town's Official newspapers, the Arcade Herald and the Springville Journal, which explained the purpose of the Local Law.

The Supervisor then called for comments from the floor. After calling three times for comments, and there being none forthcoming, on a motion by Hochadel, seconded by Morrell, the hearing was adjourned at 6:31 PM. Carried, 5 ayes, 0 noes.

10-8-2015 – REGULAR PORTION OCTOBER MEETING

Present:

Councilman Cheryl L. Earl
Councilman Leonard R. Hochadel
Councilman David L. Montgomery
Councilman Douglas J. Morrell
Supervisor Beverly A. Gambino

Also Present:

Attorney for the Town David DiMatteo
Highway Superintendent Donald Hopkins
Town Clerk Betsy A. Marsh
Approx. 10 guests

The Sardinia Town Board held its Regular Monthly Meeting for the month of October on October 8, 2015 at the Sardinia Town Hall/Community Center. Supervisor Gambino called the meeting to order at 6:32 PM.

Supervisor Gambino stated that the first order of business was the approval of the September Board meeting minutes. **On a motion by Gambino, seconded by Hochadel, the minutes of the September 10, 2015 Regular Board meeting were approved as submitted. Carried, 5 ayes, 0 noes.**

Warrant #10 of 2015, including vouchers #1332 through #1390, totaling \$49,319.24, of which the General Fund was \$39,414.91; and the Highway Fund was \$9,904.33, was approved for payment on a motion by Earl, seconded by Morrell, and carried, 5 ayes, 0 noes.

Supervisor Gambino stated that the Board needs to schedule a Public Hearing on the Community Development Block Grant funding, which the Board was in agreement to apply only for funding for the Rural Transit Van, a Special meeting to formally act on that project, a Budget Work Session on the 2016 Town Budget, and a subsequent Public Hearing on the 2016 Budget. After discussion, the Board felt that the Public Hearing on the CDBG application, the Special Meeting to apply for those funds, and the Budget Work Session could be held on the same day, October 22, 2015, with the Public Hearing on the Budget being held during an evening after October 22. They then agreed to schedule the Hearing on the 2016 Town Budget on October 29, 2015. **Therefore, on a motion by Earl, seconded by Hochadel, the Public Hearing on CDBG funds will be held on October 22, 2015, at 10:30 AM; the Special Meeting on the CDBG funding will be held on October 22, 2015 at 10:45 AM; the Work Session on the 2016 Town Budget will be held on October 22, 2015 at 11:00 AM; and the Public Hearing on the 2016 Budget will be held on October 29, 2015 at 6:30 PM. Carried, 5 ayes, 0 noes.** Supervisor Gambino stated that the Town Hall roof replacement project will begin on Monday, October 12; and the Schutt Rd. demolition project has been completed at a total cost of \$13,040.00, which is reimbursable from the Buffalo Erie Niagara Land Improvement Corp. (BENLIC). The Supervisor stated that the house numbering project has now been started, and Disaster Coordinator Gerry Whittington reports that Allen Rd. is 95% complete, taking them approximately 3½ hours. Mr. Whittington also reported that he had contacted the Town and got approval to buy 4 Pounders, at a cost of \$24.99 each, which will be given to the Highway Dept. at the completion of the numbering project. The Supervisor stated that Mr. Whittington also has submitted a resolution for Town adoption of the Erie County, NY Multi-Jurisdictional Hazard Mitigation Plan. Mr. Whittington stated that the County's Plan needs to be adopted by each municipality in Erie County, and added that this is required for FEMA reimbursement. **The following resolution, to be known as Resolution #32 of 2015, was then moved for adoption by Gambino, seconded by Hochadel:**

RESOLUTION #32 - 2015
ADOPTION OF ERIE COUNTY, NEW YORK MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN
<http://www2.erie.gov/disaster/index.php?q=HMP%20General%20Information>

WHEREAS, The Town of Sardinia, with the assistance from URS Corporation, has gathered information and prepared the Erie County, New York, Multi-Jurisdiction Hazard Mitigation Plan Update (the Plan); and

WHEREAS, the County of Erie has afforded the citizens an opportunity to comment and provide input in the Plan and the actions in the Plan; and

WHEREAS, Town of Sardinia have reviewed the Plan and affirms that the Plan will be updated no less than every five years;

NOW, THEREFORE, BE IT RESOLVED, by the Sardinia Town Board that the Town of Sardinia adopts the Erie County, New York, Multi-Jurisdictional Hazard Mitigation Plan Update as this jurisdiction's Natural Hazard Mitigation Plan, and resolves to execute the actions in the Plan.

Upon roll call vote: Earl, aye, Hochadel, aye, Montgomery, aye, Morrell, aye, Gambino, aye. So Resolved.

Departmental Reports:

Councilman Morrell reported that the roof project will be started on Monday, then the elevator can be repaired, but the new control cell can't be replaced until the roof is fixed. Mr. Morrell also informed that he has spoken to Waste Management, who is currently putting a temporary cap on the landfill, and have another cell ready to go. Tom Lewis of Waste Management stated that this is the 5th of 6 cells, and it is now complete and they have on-site DEC approval to place waste in them. He stated the temporary cap is so they don't put as much soil over the top, and stated they have placed 9 acres of Wind Defender, a material to prevent erosion, on the west side of the landfill, and on part of the south side. Councilman Morrell also noted that he has been down Allen Rd. and the new house numbering signs look good.

Councilman Montgomery reported that everything is set for the free rabies clinic for Town residents for Saturday, October 24, 2015, from 9 AM until noon at the Highway Garage and for the flu clinic on October 30th from 9 AM until 1 PM. He stated that the advertisement for those programs will be placed for this week and next. Councilman Montgomery also informed that the Rural Transit Van Program has a new driver, from Java Center, and they are now running 4 days a week.

Councilman Earl stated that she would like to see the 2016 Tentative Town Budget go on the Town's website, and could not find the 2015 Budget on the site either. She stated she wanted to compare those two budgets, and felt that residents could also compare. She then asked Disaster Coordinator Gerry Whittington about the Certificate of Need (CON) for Mercy Ambulance Service. Mr. Whittington stated that the CON is only good for 60 days and they are applying for a permanent one.

Councilman Hochadel reported that he had attended the Springville Control Center meeting on September 17th where the big topic of discussion was the Mercy Ambulance Service now stationed at Springville Hospital. He stated he had also attended a meeting in South Wales on Mercy Fight/Mercy Ambulance, and stated there were about 85 to 90 people from Springville there. He stated that the vote for the Mercy Ambulance Service was 12 to 1 in favor of the Service. He stated that he drove by the Springville Hospital the other day, and there were two Mercy Ambulances there. He stated that everyone is very happy that they are there, since there have been a lot of problems with Rural Metro Ambulance being out of Service about 60% of the time in the past.

Highway Superintendent Donald Hopkins reported that the jack that was listed on Auctions International did not sell, so he authorized them to put it back on the auction site. He also stated that the pool is all drained and winterized, and Leisure Craft has installed the new pool pump, and will come back in June, before pool start up, to make sure everything is working properly. Mr. Hopkins stated that the shingles on Park Shelter #4 at the Genesee Rd. Park have now been stripped off and they are now working on repairing and replacing the roof, and informed that the cost of the materials was \$3,200.00. Mr. Hopkins stated that minor road work is ongoing, also.

Councilman Earl stated she would like to recognize Roxana Waters for 15 years of service on the Town Planning Board. She also asked Tom Lewis if the Town is still getting monitoring reports from the landfill. He stated they are. Ms. Earl stated she hasn't seen one lately, nor has she gotten points from the Fire Company. The Supervisor stated she has not gotten points from the Fire Company, either, but she has gotten monitoring reports under her door.

The Supervisor then recognized Lee Rhodus and Shaun Hediger, representing the Chaffee-Sardinia Youth Baseball League, and the Muckdogs Youth Travel Baseball League. Mr. Rhodus and Mr. Hediger explained to the Board that they would like to do baseball field upgrades to the infield of the Manion Park baseball diamond, including new sod and red clay, so that the diamond could accommodate both 60' and 70' baselines. They explained that there would be no cost to the Town, since the leagues would be paying for all materials and the work would all be done by volunteers, stating they only need the Town's permission to do the work, and have Certificates of Insurance on file with the Town. Highway Superintendent Hopkins stated that his only concern is maintenance, and the League representatives stated that the Highway Dept. has always done a fantastic job maintaining the fields and our fields are by far the best in the League. Mr. Rhodus explained that the sod would have to be done this fall so that it can sit for the winter, and the red clay would be done in the spring. Councilman Earl stated that two years ago, the Board gave them permission for a scoreboard at Manion Park, and it has not been done yet, and stated she didn't feel this should be open-ended, and felt that the permission for the red clay should not be open-ended, either. Mr. Hediger and Mr. Rhodus stated that the clay will be done in the spring. **On a motion by Earl, seconded by Hochadel, the Baseball Leagues were given permission to upgrade the field at Manion Park. Carried, 5 ayes, 0 noes.** Supervisor Gambino suggested that they work with the Highway Superintendent and go from there.

The Supervisor stated that the next order of business is a resolution to adopt Local Law #2 of 2015, the Tax Cap Override Law. Councilman Earl stated she had some concerns and comments. She stated it was her understanding

that the reason this law is being proposed is so that the Supervisor can reinstate the Fire Tax in the Budget. The Attorney for the Town explained that this is a precautionary measure because of the lack of a contract with the Fire Company. He stated that because the Town has no Town tax at the present, if taxes needed to be levied, even \$1.00, or \$.10 would be a 100% increase, and the penalties assessed by the State for going over the .73% tax cap would be exorbitant. **After discussion, the following resolution, to be known as Resolution #33 of 2015, was moved for adoption on a motion by Hochadel, seconded by Morrell:**

**RESOLUTION #33 – 2015
ADOPTION OF LOCAL LAW #2 of 2015
REQUEST TO “OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW
SECTION 3-C**

WHEREAS, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

WHEREAS, Chapter 97 of the Laws of 2011 – “The Property Tax Cap” add a new section 3-c. to the General Municipal Law that provides that the amount of real property taxes that may be levied by or on behalf of any local government shall not exceed two percent (2%); and

WHEREAS, in order to adopt a budget that requires a tax levy that is greater than the tax levy limit for the coming fiscal year, only if the Town Board first enacts, by a vote of sixty percent (60%) of the total voting power, a local law to override such limit for such coming fiscal year only; and

WHEREAS, a Notice of Public Hearing was duly published in the Town’s official newspaper and said public hearing was held on October 8, 2015, at which time all parties in attendance were provided an opportunity to speak or provided written comment in favor of or in opposition to the proposed local law; and

WHEREAS, that the Town Board of the Town of Sardinia feels it is in the best interests of the Town of Sardinia to adopt said law.

NOW ON MOTION OF Hochadel, which has been duly seconded by Morrell, therefore, be it

RESOLVED, that the Town Board of the Town of Sardinia feels it is in the best interests of the Town of Sardinia to adopt Local Law No. 2 of 2015 entitled, “Override the Tax Levy Limit Established in General Municipal Law § 3-c.” and be it

FURTHER RESOLVED, that the Town Clerk be and she hereby is directed to enter the adoption of said local law in the minutes of this meeting and give due notice of the adoption of said local law to the Secretary of the State of New York.

Upon roll call vote: Earl, no, Hochadel, aye, Montgomery, no, Morrell, aye, Gambino, aye. So Resolved, 3 ayes, 2 noes.

The Supervisor stated that the next resolution is to remove funds from the Capital Reserve account for payment of the roof replacement project. **On a motion by Gambino, seconded by Morrell, the following resolution, to be known as Resolution #34 of 2015, was moved for adoption:**

**RESOLUTION #34 – 2015
REQUEST TO REMOVE FUNDS FROM BUDGET ACCOUNT #A878 CAPITAL RESERVE FUND
FOR PAYMENT OF TOWN HALL ROOF REPLACEMENT**

WHEREAS, all Board Members, having due notice of said meeting, and that pursuant to Article 7, Section 104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law, and

WHEREAS, the Town Board of Sardinia is aware that the Town Hall will need a roof replacement; and

WHEREAS, the Town Board of the Town of Sardinia has received and accepted a bid for the same from Weaver Metal and Roofing Inc. in the amount of \$173,778.65; and

WHEREAS, the Town of Sardinia is desirous to remove funds in the amount of \$173,778.65 for the roof replacement from Budget Account No. A878 of the Capital Reserve fund; and

WHEREAS, in accordance with Town Law Section 107 “Contents of Preliminary Budget” and General Municipal Law Section 6-c, a resolution establishing a specific capital reserve fund is subject to permissive referendum if bonds issued to finance such project would be subject to permissive referendum; and

WHEREAS, that said action is subject to a permissive referendum and shall become effective in thirty (30) days after its adoption, or, thereafter, upon approval by the affirmative vote of a majority of the qualified electors of the Town voting on such proposition for its approval, if within thirty (30) days after its adoption there is filed with the Town Clerk a petition signed and acknowledged by electors in the Town in number equal to at least twenty per centum of such electors in the Town, as shown on the register of electors for the previous general Town election, protesting against such act or resolution and requesting that it be submitted to the electors of the Town for their approval or disapproval; and

WHEREAS, that the Town Board of the Town of Sardinia feels it is in the best interests of the Town of Sardinia to remove \$173,778.65 from the Town of Sardinia’s Capital Reserve fund to pay for the construction of a new roof on the Town Hall.

NOW ON MOTION OF Gambino, which has been duly seconded by Morrell, therefore, be it

RESOLVED, that the Town Board of the Town of Sardinia feels it is in the best interest of the Town of Sardinia to remove \$173,778.65 from the Town of Sardinia's Capital Reserve fund to pay for the construction of a new roof on the Town Hall; and be it further

RESOLVED, that said action is subject to a permissive referendum and shall become effective in thirty (30) days after its adoption, or , thereafter, upon approval by the affirmative vote of a majority of the qualified electors of the Town voting on such proposition for its approval, if within thirty (30) days after its adoption there is filed with the Town Clerk a petition signed and acknowledged by electors in the Town in number equal to at least twenty per centum of such electors I the Tow, as shown on the register of electors for the previous general Town election, protesting against such act or resolution and requesting that it be submitted to the electors of the Town for their approval or disapproval; and be it further

RESOLVED, by the Town Board of the Town of Sardinia that this resolution shall not take effect until thirty (30) days after its adoption or until approved or until approved by the affirmative vote of a majority of the qualified electors of the Town of Sardinia; and be it further

RESOLVED, that the Town Clerk be and she hereby directed to publish an abstract of this resolution in the newspaper of the Town of Sardinia within (10) days of the adoption of same.

Upon roll call vote: Earl, aye, Hochadel, aye, Montgomery, aye, Morrell, aye, Gambino, aye. So Resolved.

Supervisor Gambino stated that the next resolution is to grant permission to the Chaffee-Sardinia Kiwanis Club to hold their annual Halloween Party at the Town Hall. **The following resolution, to be known as Resolution #35 Of 2015, was then moved for adoption on a motion by Earl, seconded by Montgomery:**

**RESOLUTION #35 - 2015
REQUEST FOR USE OF TOWN HALL FOR KIWANIS HALLOWEEN PARTY**

WHEREAS, the Sardinia Town Board has received a request for use of the Sardinia Town Hall For the Chaffee- Sardinia Kiwanis Halloween Party on Saturday October 31, 2015, and

WHEREAS, this event has annually occurred at the Sardinia Town Hall and has hosted our Sardinia youth for a fun-filled activity, limiting the vandalism that has occasionally occurred in the past, and,

NOW, THEREFORE, BE IT RESOLVED, the Sardinia Town Board hereby approves the request of the Chaffee-Sardinia Kiwanis to host their annual Halloween party on October 31, 2015 at the Sardinia Town Hall, pending their Certificate of Insurance form, and waiving the rental fee as they are a non-for-profit organization.

Upon roll call vote: Earl, aye, Hochadel, aye, Montgomery, aye, Morrell, aye, Gambino, aye. So Resolved.

The Supervisor stated that the next resolution is to approve the Sardinia Legion's Veteran's Services contract. **The following resolution, to be known as Resolution #36 of 2015, was then moved for adoption on a motion by Hochadel, seconded by Earl:**

**RESOLUTION #36 – 2015
APPROVAL OF VETERAN SERVICES CONTRACT
SARDINIA LEGION POST 1131**

WHEREAS, the Sardinia Town Board agrees that the Sardinia Legion does provide a service to the Town and an amount of \$2500 has been requested from the Sardinia Legion Post 1131, and,

NOW, THEREFORE, BE IT RESOLVED, the Sardinia Town Board has reviewed the contract and has agreed upon the terms for a contract with the Sardinia Legion Post 1131 in the amount of \$2500 to be approved each year for a three year period of the contract, and

BE IT FURTHER RESOLVED, the Sardinia Town Board approves Supervisor Beverly Gambino to sign and enter into the contract on behalf of the Town of Sardinia.

Upon roll call vote: Earl, aye, Hochadel, aye, Montgomery, aye, Morrell, aye, Gambino, aye. So Resolved.

Supervisor Gambino stated that the next resolution is for approval of new appointments. She stated that she has advertised the vacancies and did not receive any applications of anyone interested in filling the positions. Councilman Earl stated that she was not even aware of the vacancies, and asked if those being replaced had submitted letters of resignation, or were fired, or what. She stated she feels that the Board should have been informed. The Supervisor stated she had advertised weeks ago, and the only written resignation had been the Planning Board position. She stated that the ZBA positions had been verbal resignations to the ZBA Secretary, her bookkeeper, who has since resigned, herself, due to her many other obligations. The ZBA Chairman was asked if he knew about the resignations, and he stated he knew about the Pam Smolinski resignation, but did not know about the Secretary's resignation. Councilman Earl felt that the positions should be advertised again, and the Supervisor stated the Town had already paid \$250.00 to advertise, and has people interested now. **After further discussion, the following resolution, to be known as Resolution #37 of 2015, was then moved for adoption on a motion by Hochadel, seconded by Morrell:**

**RESOLUTION #37 – 2015
APPROVAL OF NEW APPOINTMENTS**

Moved by Hochadel, second by Morrell, that Denise Schiener be appointed Zoning Board Secretary at the hourly rate of \$13.07 and Alternate board member beginning October 9th 2015;

Moved by Hochadel, second by Morrell, that Mary Roth be appointed to Planning Board Member filling out the term of a previous member with appointment ending on 12/31/2018 beginning on October 22, 2015; and

Moved by Hochadel, second by Morrell, on the recommendation of Town Councilman Hochadel and Zoning Board Member Hans Ylmar, that Theodore Krolick, Jr. be appointed as Zoning Board of Appeals Member, filling out the term of a previous member with appointment ending on 12/31/2017.

Upon roll call vote: Earl, no, Hochadel, aye, Montgomery, no, Morrell, aye, Gambino, aye. So Resolved, 3 ayes, 2 noes.

The Supervisor stated that the next resolution is for approval to have the Town pay for a portion of the Senior Citizens' Thanksgiving Dinner on November 19th. She stated that last year, the cost per meal was the same, there were 65 Seniors in attendance, and the total paid by the Town was \$552.50. **The following resolution, to be known as Resolution #38 of 2015, was then moved for adoption on a motion by Gambino, seconded by Earl:**

**RESOLUTION #38 - 2015
APPROVAL OF SARDINIA SENIOR CITIZENS THANKSGIVING DINNER**

WHEREAS, the Sardinia Town Board has received a request from the Senior Citizens to contribute to the cost of the annual Thanksgiving Dinner to be held on November 19, 2015 at 12:30 p.m. at the Holland Willows, and

WHEREAS, the cost of this dinner is \$13.50 per person; Waste Management will contribute \$5.00 per person the remainder \$8.50 per person is requested from the seniors for this event, and

WHEREAS, the Town of Sardinia has annually contributed to this event and has the funds available in the budget for this, and

NOW, THEREFORE, BE IT RESOLVED, the Sardinia Town Board hereby authorizes the payment to the Holland Willows not to exceed \$8.50 per person for the purpose of the Sardinia Senior Thanksgiving Dinner to be held on November 19, 2015 at 12:30 p.m. at the Holland Willows.

Upon roll call vote: Earl, aye, Hochadel, aye, Montgomery, aye, Morrell, aye, Gambino, aye. So Resolved.

Supervisor Gambino stated that the last resolution is for a budget transfer within the 2015 General Fund Budget. **The following resolution, to be known as Resolution #39 of 2015, was then moved for adoption on a motion by Gambino, seconded by Hochadel:**

**RESOLUTION #39 - 2015
APPROVAL OF FUND TRANSFER**

WHEREAS, the Town of Sardinia Board approves the following transfer of funds:

TRANSFER FROM	AMOUNT	TRANSFER TO
A1490.400 Administr Grant	\$1500.00	A1440.400 Engineering Contr
A5132.440 Garage Build. Repair	\$38.66	A5132.490 Garage Other Expenses
A7140.440 Playgrounds, Playgr exp	\$1558.58	A7180.400 Special Recreat. Facilities Cont
DA 5130.200 Highway Machinery Equip.	\$1000.00	DA5110.120 General Repairs Personal Service
DA5110.420 General Repairs – Fuel & Lube	\$92.32	DA5110.490 General Repair Other Expenses

Upon roll call vote, Earl, aye, Hochadel, aye, Montgomery, aye, Morrell, aye, Gambino, aye. So resolved, 5 ayes, 0 noes.

Attorney for the Town David DiMatteo stated that he has reviewed the matter of the strip of land on Gales Court, belonging to the Town, but unused as road right-of-way, and stated that there is no legal description for the property. He stated that the neighbors, the Buttino family, has expressed interest in acquiring the land, and the Highway Superintendent has stated that the Town does not use, or need, the property. Mr. DiMatteo stated that he feels a survey of the property would need to be done, and suggested that the Town should inform the Buttinos that if they want the property, they would have to pick up the cost of the survey, as well as the deed recording cost of the Attorney. Board members were in agreement, and Mr. DiMatteo will send a letter to that effect to the Buttino family. Attorney DiMatteo stated that, concerning the Fire Company negotiations, they are asking for 3% increases in their contractual payments for each of the next 3 years. He stated that the annual contractual increase would exceed the tax cap, and stated that the Town will probably not get a contract in place before the Budget is adopted, stating that several letters have been sent, as well as emails, and still negotiations have not been continued. Councilman Earl asked about the Hutchinson Rd. Townhouse project's sewer and water corporations. Attorney DiMatteo stated that the Town received a letter from Chatfield Engineers with their engineering comments. He stated it had more than 27 bullet points of problems with just the water system itself. Mr. DiMatteo stated that the problem is, that when our engineers call his engineers, his engineers state that they no longer work for him. He stated that Mr. Koch needs to get an engineer who can answer Chatfield's concerns. Mr. DiMatteo stated that he has sent several letters to Mr. Malcolm, Mr. Koch's attorney.

There being no further business to come before the Board, on a motion by Morrell, seconded by Hochadel, the meeting was adjourned at 7:19 PM. Carried, 5 ayes, 0 noes.

Respectfully Submitted,

Town Clerk

