

**05-13-2021 – REGULAR MAY MEETING**

Present:

Councilman Mike Domster  
Councilman Leonard R. Hochadel  
Councilman Matthew Krist  
Councilman John D. Marsh  
Supervisor Beverly A. Gambino

Also Present:

Highway Superintendent Donald Hopkins  
Attorney David DiMatteo  
Town Clerk Jennifer L Bray

Approx. 12 guests

Supervisor Gambino called the Regular May meeting to order at 6:37 PM, immediately following the Public Hearing for a Special Use Permit for New Cingular Wireless PCS. LLC.

Supervisor Gambino stated that Attorney DiMatteo was in attendance to discuss the proposed updates to the solar law and battery storage law. Attorney DiMatteo stated that the Town held a Public Hearing on April 12<sup>th</sup> to hear and receive comments on the proposed local law to amend the current solar law and the proposed battery energy storage law. Mr. DiMatteo stated that the comments have all been reviewed and upon completion of that review some updates were made to the proposed laws. Mr. DiMatteo noted that at this time there are no projects that are shovel ready being started at this time. Attorney DiMatteo then went over Parts 2 and 3 of the Environmental Impacts forms line by line for proposed Local Law #1 Amending the Zoning Ordinance of the Town of Sardinia, chapter 115, article 6 regarding solar energy systems. Mr. DiMatteo noted a number of times that at this time the Town Board is only passing a local law to update the zoning and that there is no environmental impact from a law but noted that if a project is applied for that impact could change and therefore at that time the answers on these forms may be different. Next Attorney DiMatteo discussed the proposed local law regarding regulating battery energy storage systems. Mr. DiMatteo stated that the Town currently does not have a law regulating battery storage systems. Mr. DiMatteo noted that as time goes on this law may need to be updated. Mr. DiMatteo stated that at this time there are no applications with the Town for battery storage systems. Attorney DiMatteo then did a line by line review of part 2 and part 3 of the environmental review forms. Mr. DiMatteo noted again that there is no environmental impact by passing a law but that may change if a project is applied for. Lastly Attorney DiMatteo presented and read the following resolution for the adoption of both Local Law #1 Amending the Zoning Ordinance of the Town of Sardinia Chapter 115, Article 6 Regarding Solar Energy Systems and Local Law #2 Relating to Battery Energy Storage Systems. **The following resolution, to be known as Resolution #16 of 2021, was moved for adoption on a motion by Marsh, seconded by Hochadel:**

**RESOLUTION #16 – 2021  
RESOLUTION OF THE TOWN BOARD OF THE TOWN OF SARDINIA  
RELATING TO THE PROPOSED LOCAL LAWS ENTITLED "AMENDING THE ZONING ORDINANCE  
OF THE TOWN OF SARDINIA, CHAPTER 115, ARTICLE 6 REGARDING SOLAR ENERGY  
SYSTEMS" AND "REGULATING BATTERY ENERGY STORAGE SYSTEMS" IN THE TOWN OF  
SARDINIA**

The Town Board of the Town of Sardinia met at a regular board meeting at the Town Hall of the Town of Sardinia, New York on May 13th, 2021, commencing at 6:30 p.m. and the following members were:

**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**, pursuant to Governor Andrew Cuomo's Executive Orders put into place in consideration of the COVID-19 pandemic and the guidelines put in place during Phase IV of New York Forward, said meeting was held in accordance with social distancing protocol and face coverings were worn by all Board Members and public attendees; and

**WHEREAS**, the Town Board of the Town of Sardinia is considering a proposed local law, entitled "Amending the Zoning Ordinance of the Town of Sardinia, Chapter 115, Article 6 Regarding Solar Energy Systems", to repeal and replace Local Law No. 1 of 2017 referred to as Amending the Zoning Ordinance of the Town of Sardinia to Regulate Solar Energy Systems"; and

**WHEREAS**, the Town of Sardinia recognizes that solar energy is a clean, readily available, and renewable energy source and that development of solar energy systems offers an energy resource that can act to attract and promote green business development, with the proper permitting; and

**WHEREAS**, the Town Board of the Town of Sardinia is also considering a proposed local law, entitled "Regulating Battery Energy Storage Systems", to regulate Tier 1 and Tier 2 Battery Energy Storage Systems within the Town of Sardinia; and

**WHEREAS**, the Town of Sardinia recognizes that battery energy storage systems are becoming

an integral component to alternative energy sources; and

**WHEREAS**, the Town Board of the Town of Sardinia did refer said proposed local laws to the Erie County Division of Planning pursuant to section 239-l and 239-m of the General Municipal Law; and

**WHEREAS**, the Erie County Division of Planning acknowledged receipt of the Zoning Referral on March 17, 2021, and provided a reply dated April 7, 2021, advising “No recommendation; proposed action has been reviewed and determined to be of local concern”; and

**WHEREAS**, the Erie County Department of Environment and Planning did review said proposed local laws referred to them by the SEQR coordinated notice on March 16, 2021 and offered the following comments:

In comment to the proposed local law “Amending the Zoning Ordinance of the Town of Sardinia, Chapter 115, Article 6 Regarding Solar Energy Systems”:

- For Tier 4 systems, the Town may wish to add language stating that any off-site infrastructure, including transmission lines and points of grid interconnection (POI), shall be noted on site plans and be included in the review of the project. Any off-site POI should be subject to the same safety and visibility requirements as the balance of the project.
- In order to resolve any ambiguity regarding the allowable size of Tier 2 systems, the Town may wish to revise the definition for such systems, which reads, “up to 1,500 or less than 4,000 square feet in size...”
- The Town may wish to require that any utility poles constructed as part of a project be made available for co-location by other utilities.
- The Town may wish to add language addressing solar energy systems on historic structures. Such a structure is defined as any building with a local, state, or federal designation.

In comment to the proposed local law “Regulating Battery Energy Storage Systems”:

- The proposed ordinance is consistent with the model battery storage ordinance published by NYSEDA, and would be sufficient to regulate typical battery energy storage facilities.
- The Town may wish to prohibit Tier 2 systems within the Parks, Recreation, and Conservation zoning district. Tier 2 systems are unlikely to be feasible on sites with this zoning designation, and prohibiting this use would discourage applicants from considering such projects.
- The Town may wish to require that any utility poles constructed as part of a project be made available for co-location by other utilities.

;and

**WHEREAS**, the Town board did hold a public hearing on April 12, 2021, to consider the adoption of said local laws and received comments from the public, including written comments from John Schiener, Lia Oprea, and the Sardinia Rural Preservation Society through a letter from their attorney, Benjamin E. Wisniewski, Esq. of Zoghlin Group; and

**WHEREAS**, the Town Board sought Lead Agency status for review of said local laws as Type 1 Actions by resolution dated March 11, 2021, for the purpose of the State Environmental Quality Review Act (“SEQRA”) and advised potentially involved and/or interested agencies of the actions through a Notice of Intent to Act as Lead Agency dated March 16, 2021; and

**WHEREAS**, the Town Board received no objections to act as Lead Agency and has hereby established themselves as SEQR Lead Agency for review of the local laws; and

**WHEREAS**, the Town Board has reviewed the Full Environmental Assessment Forms (“FEAF”), the comments and input received from the Erie County Department of Environment and Planning, the public, the Town’s engineering consultant, and the Town Attorney and has completed parts 2 and 3 of the FEAF for each action; and

**WHEREAS**, the Town Board, in accordance with SEQRA, has determined that the proposed local laws will not adversely affect the natural resources of New York State and/or the health, safety and welfare of the public and is consistent with social and economic considerations and has determined that the proposed local laws will result in no significant adverse environmental impacts; and

**WHEREAS**, the Town Board feels it is in the best interest of the Town of Sardinia to adopt the local laws entitled “Amending the Zoning Ordinance of the Town of Sardinia, Chapter 115, Article 6 Regarding Solar Energy Systems” and “Regulating Battery Energy Storage Systems”.

**NOW ON MOTION OF** Councilman Marsh which has been duly seconded by Councilman Hochadel, now therefore, be it

**RESOLVED**, that the Town Board of the Town of Sardinia has established themselves as Lead Agent for SEQR review of the local laws entitled “Amending the Zoning Ordinance of the Town of Sardinia, Chapter 115, Article 6 Regarding Solar Energy Systems” and “Regulating Battery Energy Storage Systems”; and be it further

**RESOLVED**, that the Town Board of the Town of Sardinia hereby issues a Negative Declaration for each local law and the Supervisor of the Town of Sardinia is authorized to sign Part 3 of the FEAFF for each action which will act as the SEQR Negative Declaration(s); and be it further

**RESOLVED**, that Town Board hereby adopts the local law entitled "Amending the Zoning Ordinance of the Town of Sardinia, Chapter 115, Article 6 Regarding Solar Energy Systems" to repeal and replace Local Law No. 1 of 2017 referred to as "Amending the Zoning Ordinance of the Town of Sardinia to Regulate Solar Energy Systems"; and be it further

**RESOLVED**, that the Town Board hereby adopts the local law entitled "Regulating Battery Energy Storage Systems", to regulate Tier 1 and Tier 2 Battery Energy Storage Systems within the Town of Sardinia.

**DULY ADOPTED, this 13th day of May, 2021 by the following roll call vote: Domster aye, Hochadel, aye, Krist, aye, Marsh, aye, Gambino, aye. So resolved, 5 ayes, 0 noes.**

Supervisor Gambino stated that the next item on the agenda was for approval of two sets of minutes from April. The first was the April Regular Meeting held on April 8<sup>th</sup>, 2021 and the second was for the Public Hearing held on April 12<sup>th</sup>, 2021 regarding proposed a local law regarding Solar Zoning Ordinance and a proposed local law regarding regulating solar battery energy systems. **On a motion by Marsh, seconded by Krist, the minutes were approved, as submitted. Carried, 5 ayes, 0 noes.**

Supervisor Gambino stated that the next item on the agenda is to approve the payment of the bills. **Warrant #5 of 2021, including vouchers #202 through #276, totaling \$70,266.89 of which \$50,647.15 was for the General Fund, \$14,395.94 was for the Highway Fund, \$4,245.78 was for the Fire Protection Fund and \$978.02 was for the Street Lighting Fund. On a motion by Hochadel, seconded by Domster, the Warrant was approved for payment. Carried, 5 ayes, 0 noes.**

Supervisor Gambino stated that the next item listed on the agenda was discussion on the Special Use Permit for the proposed cellular tower on Allen Rd. Supervisor Gambino noted that this project had gone before both the Zoning Board of Appeals and the Planning Board and both had voted to approve their parts of the planned project. Supervisor asked if the Board had any questions, comments or concerns. They did not. **Therefor on a motion by Gambino, seconded by Hochadel, the Special Use Permit for New Cingular Wireless was approved. Carried, 5 ayes, 0 noes.**

Departmental Reports were as follows:

Supervisor Gambino reported that the Town Wide Garage Sale would be July 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup>. She noted that this year there would not be maps or sign ups but the Town would be advertising. Next Supervisor Gambino stated that as part of the Bicentennial celebrations she would like to put together a cookbook with recipes from Town residents and sell them as a fund raiser. Supervisor Gambino noted that the proceeds from the sale would then be donated to the Chaffee Sardinia Fire Company.

Councilman Hochadel reported that the New York State burn ban ends on May 14<sup>th</sup>. Councilman Hochadel complimented how nice the banners Savage Rd. looked.

Councilman Krist reported that the banners for the power polls were all done and that the banners for the signs coming into Town were going up as well.

Councilman Domster agreed the signs looked good. Supervisor Gambino thanked Councilman Domster and Councilman Krist for all of the work that they did to make the banners happen.

Councilman Marsh reported that everything was set for the safe driving class for Saturday May 15<sup>th</sup>. He reminded everyone that the class is from 9am – 3:30pm and that Waste Management would be providing lunch. Next Councilman Marsh reported that the new 35 mile an hours speed limit signs were still not installed on Miller Ave. After a brief discussion it was agreed that Councilman Marsh would call Senator Pat Gallivan to see if he could be any help getting the State to move ahead on this project.

Highway Superintendent Hopkins reported that the Highway department picked up 33.75 tons of trash during trash pick-up. Superintendent Hopkins stated that he got prices for tire disposal if the Board still wanted to host a used tire drop off. The first was from Get R Done and was \$180.00 per ton and the second was from Ron Previty for \$140.00 per ton. After discussion it was agreed the Town would host the tire drop off for Town residents only from 7am-noon on Saturday June 5<sup>th</sup> at the highway garage. It was also agreed that there would be an 8 tire maximum and only car and light truck tires would be taken. **On a motion by Marsh, seconded by Hochadel, the used tire drop off was set for June 5th. Carried, 5 ayes, 0 noes.** Next Superintendent Hopkins reported that with passage of the New York State budget there has been an increase to Chips Funding, Pave NY money and Extreme Winter Recovery money therefore the Town will need to pass a resolution to increase the lines for these items. **Therefore following resolution, to be known as Resolution #17 of 2021, was moved for adoption on a motion by Krist, seconded by Hochadel:**

**RESOLUTION #17 – 2021  
PERMISSION AND KNOWLEDGE OF HIGHWAY MONEYS RECEIVED FROM THE STATE OF NY  
FOR STATE AID FOR THE REPAIR AND IMPROVEMENT OF HIGHWAYS**

**WHEREAS**, the Town of Sardinia is in acknowledgement of monies received from the State of New York for repair and improvements of highways, and

**WHEREAS**, the Town of Sardinia acknowledges the increases of monies from CHIPS, Extreme Winter Recovery Program, and Pave NY will increase the budget lines set aside for highway repair by approximately \$27,100.00, and

**WHEREAS**, the Town of Sardinia town board approves the spending of these funds for general repairs, and permanent improvement on Town owned highways, and

**NOW THEREFORE, BE IT RESOLVED**, that the Town Board acknowledges, approves, and gives permission to the Highway Superintendent, Donald Hopkins to spend these funds/monies as set to the terms in the 284 Highway Moneys Agreement for the year 2021

**DULY ADOPTED, this 13th day of May, 2021 by the following roll call vote: Domster aye, Hochadel, aye, Krist, aye, Marsh, aye, Gambino, aye. So resolved, 5 ayes, 0 noes.**

Superintendent Hopkins then updated the Board on the status of the new pickup truck that had been ordered as well as informing them that he had signed an updated shared service agreement with the NYS DOT. Next Superintendent Hopkins stated that he had four bids for a new generator for the Highway Garage. Mr. Hopkins noted that the bids were all a bit different. They were as follows:

- Zenner and Ritter - two bids  
22kw - air cooled - \$10,818.00  
24kw - air cooled - \$11,250.00
- M & M Holland - two bids  
25kw - liquid cooled - \$20,985.00  
27kw - liquid cooled - \$22,885.00
- Dubai Electric Inc.  
45kw – liquid cooled - \$25,752.04
- Gerwitz & McNeil  
53kw – liquid cooled - \$39,990.00

After a brief discussion it was agreed that the Town would award Dubai Electric Inc. the bid for the new generator. **On a motion by Marsh, seconded by Hochadel, Superintendent Hopkins was given permission to purchase the generator from Dubai Electric and have it installed. Carried, 5 ayes, 0 noes.** Superintendent Hopkins updated the board on the increased cost of bromine. Superintendent Hopkins noted that the cost was up this year from \$249.00 per bucket to \$279.00 but he was able to find a new supplier and the cost would only be \$206.00 per bucket. Mr. Hopkins also noted that he was able to purchase whizzy wash disinfectant sprayers from this supplier for cleaning the bathrooms and the pool decks. **On a motion by Krist, seconded by Hochadel, Superintendent Hopkins was given permission to order 12 buckets of bromine for the pool. Carried, 5 ayes, 0 noes.** Next Superintendent Hopkins reported that he had been talking to vendors for a new 10 wheeler to replace the 2010 Peterbilt. He noted that he planned to ask to purchase a new truck next year. Superintendent Hopkins stated that over the last two years repairs on the Peterbilt had been over \$28,000.00 but the truck is running and would need to last until the Town could get a new truck. Superintendent Hopkins asked the Board if they would want to piggyback a bid for a new truck for next year even though there is not money in the budget currently for a new truck. Mr. Hopkins noted that the Western Star truck that they have now has been working well, has good visibility, is comfortable and is user friendly. Mr. Hopkins also noted that it may take over twelve months to get a new truck in. Superintendent Hopkins stated that after talking with Rick Groff from Fleet Maintenance the cost is up from when the Western Star was purchased. The current price from the Cattaraugus County bid that can be piggybacked is \$138,834.00 for the Cab and Chassis and \$105,000.00 for the snow plow equipment for a total of \$243,834.00. Supervisor Gambino stated that her thought was to start the process because of the length of time it may take. **On a motion by Marsh, seconded by Krist, Superintendent Hopkins was given permission to start the process of getting the new 10 wheeler. Carried, 5 ayes, 0 noes.**

Supervisor Gambino stated that the item on the agenda was a resolution to approve the appointment of Emily Frazier to the Chaffee Sardinia Fire Company. Supervisor Gambino noted that Emily is not a Town resident. **The following resolution, to be known as Resolution #18 of 2021, was moved for adoption on a motion by Marsh, seconded by Krist:**

**RESOLUTION #18 – 2021  
APPOINTMENT OF CHAFFEE-SARDINIA VOLUNTEER FIREMAN**

**WHEREAS**, the Sardinia Town Board is in receipt of the application of,

**Emily Frazier, 1348 Eagle Street, Arcade, NY 14009 (non-resident)**

Who has applied for a volunteer position as a Volunteer Firefighter to the Chaffee-Sardinia Memorial Fire Company and,

**WHEREAS**, the Sardinia Town Board supports and approves the appointment of Emily Frazier, and

**NOW THEREFORE, BE IT RESOLVED**, that the Town Board approves the appointment of Emily Frazier, Volunteer Fireman to the Chaffee-Sardinia Memorial Fire Department.

**DULY ADOPTED, this 13th day of May, 2021 by the following roll call vote: Domster aye, Hochadel, aye, Krist, aye, Marsh, aye, Gambino, aye. So resolved, 5 ayes, 0 noes.**

Supervisor Gambino stated that the next item on the agenda was a resolution to approve the appointment of summer recreation staff and lifeguards for the pool. Supervisor Gambino noted that Rebekah Burke was also being appointed secretary for the Planning Board and Zoning Board. **The following resolution, to be known as Resolution #19 of 2021, was moved for adoption on a motion by Marsh, seconded by Krist:**

**RESOLUTION #19 – 2021  
APPROVAL OF POSITIONS**

**WHEREAS**, the Sardinia Town Board has received recommendations from the Recreation Manager Chris Warner and Managing Pool Director Danielle Scott to fill the following positions with individuals listed at the pay rate posted:

<u>POSITION</u>	<u>NAME</u>	<u>RATE OF PAY per hour</u>
Rec. Director – return	Jamie Smith	\$16.75
Rec Attendant – return	Katelyn Kittleson	\$16.00
Rec Attendant – new	Ethan Warner	\$15.00
Rec Attendant – new	Mike Domster	\$15.00
Rec Attendant – new	Kristen Morris	\$15.00
Rec Attendant – new	Morgan Brouse	\$15.00
Lifeguard – return	Heather Slomba	\$16.25
Lifeguard – return	Alexis Andres	\$16.00
Lifeguard – return	Nathan Schiener	\$16.00
Lifeguard – return	Katelyn Eigenbrod	\$15.75
Lifeguard – return	Anna Killingbeck	\$15.75
Lifeguard – return	Ashley Bliss	\$15.50
Lifeguard – return	Teara Tatko	\$15.50
Lifeguard – return	Nick Schiener	\$15.25
Lifeguard – new	Brittany Bliss	\$15.00
Lifeguard – new	Heidi Schalberg	\$15.00
Lifeguard – new	Zachary Marks	\$15.00
Lifeguard – new	Porsha Harrington	\$15.00
Lifeguard – new	Brody Jones	\$15.00

Part-time Secretary for Zoning Board of Appeals, and Planning Board – Rebekah Burke, with the hourly rate of pay of \$16.00 an hour.

**NOW, THEREFORE, BE IT RESOLVED**, the Sardinia Town Board hereby approves the above listed personnel for the 2019 summer recreation season, and part time Zoning/Planning Board secretary.

**DULY ADOPTED, this 13th day of May, 2021 by the following roll call vote: Domster aye, Hochadel, aye, Krist, aye, Marsh, aye, Gambino, aye. So resolved, 5 ayes, 0 noes.**

Supervisor Gambino stated that the next resolution was for the approval of fund transfers for the Highway Department to cover the lines until the funding new funding comes from the State. **The following resolution, to be known as Resolution #20 of 2021, was moved for adoption on a motion by Marsh, seconded by Krist:**

**RESOLUTION #20 – 2021  
APPROVAL OF FUND TRANSFER**

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

<u>TRANSFER FROM</u>	<u>AMOUNT</u>	<u>TRANSFER TO</u>
DA909 Fund Balance Unreserved	\$27,100.00	DA3501 CHIPS Aid
DA909 Fund Balance Unreserved	\$27,000.00	DA5110.440 Road Construction Materials

**DULY ADOPTED, this 13th day of May, 2021 by the following roll call vote: Domster aye, Hochadel, aye, Krist, aye, Marsh, aye, Gambino, aye. So resolved, 5 ayes, 0 noes.**

**There being no further business to come before the Board, on a motion from Krist, seconded by Hochadel the meeting was adjourned at 7:15 PM. Carried 5 ayes, 0 noes.**

Respectfully Submitted,

Town Clerk