

**12-13-2012 – REGULAR BOARD MEETING**

Present:

Councilman Cheryl L. Earl  
Councilman Daniel L. Miller  
Councilman David L. Montgomery  
Councilman Douglas J. Morrell  
Supervisor Mary L. Hannon

Also Present:

Attorney for the Town Linda Joseph  
Highway Superintendent Donald Hopkins  
Town Clerk Betsy A. Marsh  
Approx. 80 guests

The Sardinia Town Board held its Regular Town Board meeting for December on December 13, 2012 at the Sardinia Town Hall/Community Center. Supervisor Hannon called the meeting to order at 6:54 PM, with the Pledge to the Flag and a moment of silence.

The Supervisor then stated there are a few items on the agenda which she would like to move forward to this point in the meeting, and acknowledged the presence of County Legislator John Mills. Mr. Mills presented County directories and NYS Sheriff's Yellow Dot Program pamphlets to the Clerk for her office, and informed that the County Budget process is moving along, and stated that 6 of 11 Legislators voted not to increase County taxes, so there will be no tax increase in 2013.. He stated there is still an on-going road, bridges and parks funding battle with the County Executive. Mr. Mills stated he shares the Town's concerns over the mining overlay district proposal, and Gernatt's business. He stated that the Board has a difficult decision to make, and must strike a balance. He stated he has a pretty good handle on the issues because he is the liaison to the Land Conservancy, the Cooperative Extension, and Erie County Soil & Water Conservation. He stated that the Town has to decide what kind of businesses and development they want since it effects will be felt 50 years from now and once something is disturbed, you can never go back, but on the other hand, Mr. Gernatt is a business man who does business in the Town, and there is a balance to strike. He commended Councilman Miller for getting Sardinia membership in the Southtowns Community Enhancement Coalition and Southtowns Scenic By-way and stated that will help with agri-business along Rt. 16 and Rt. 39.

The Supervisor then introduced Eric Slocum, the Town's Insurance Agent. Mr. Slocum stated that 3 years ago, the Town switched to NYMIR as its insurance carrier. He stated that they have appraised the Town's buildings and set figures which were higher than they had been insured for. He stated that the replacement cost insurance had a net result of actually lowering the Town's premium, stating there is actually more coverage for less cost. He also gave the Board copies of the Property Assets Valuation Report, and explained the document. Mr. Slocum also recommended that the Highway vehicles be insured for more, and stated he would raise the Peterbilt and the 2006 International to \$200,000.00, replacement cost, which would only increase the premium by \$440.00. He stated the Town's total insurance cost would still be less than last year. **On a motion by Miller, seconded by Earl, the Board approved the raise in the insured rate of the Highway vehicles, and the increase in the premium in the amount of \$430.00. Carried, 5 ayes, 0 noes.**

Town Historian Leo McCarthy was on hand to give a report of Historical Society activities. He stated that they had visitors from Montreal Quebec, natives of Sardinia, Italy. They had wanted to visit here and see if there was a connection between the two, but found that Sardinia, NY was named after one of the founders' favorite hymns. Mr. McCarthy stated they visited the museum and the Meeting House, and enjoyed themselves nonetheless. He stated there are pictures of the visit on the Historical Society's Facebook page. Mr. McCarthy also reported that the Meeting House was painted over the summer, which was a badly needed maintenance item. He stated that the front porch ramp re-build project is currently on hold after problems with the architect and they now have a new architect, Heather Nemick from East Aurora, who will be getting started on the project in January. Mr. McCarthy informed that the Historical Society will be changing the guest speaker night to Mondays, and the first speaker of the series will be John Baronich of Springville on the Underground Railroad. That will be held on January 21<sup>st</sup> at 7 PM.

The Town Clerk has submitted the minutes of the November 8, 2012 Public Hearing on the 2013 Town Budget, the November 8, 2012 Public Hearing on the proposed Mining Overlay District, and the November 8, 2012 Regular Board meeting, all of which were approved as written on a motion by Montgomery, seconded by Morrell, and carried, 5 ayes, 0 noes.

Departmental Reports included:

Supervisor Hannon reported that she and Bookkeeper Beverly Gambino had attended a Government Finance Officers Association conference on Retirement System reporting and the banking forecast in Rochester; she received correspondence from Councilman Miller concerning the Erie County Watershed survey, which Mr. Miller briefly explained is not due until March. The Supervisor asked that he and Councilman Montgomery work on. Mr. Miller stated that they are looking for a ranking of the tributaries in the Town, and stated we only have the Cattaraugus, which would be the highest ranked, and then the East Branch of the Cazanovia, the Hosmer, and Dry Creek.

Councilman Morrell stated that he has now received three quotes for glass block repair, but he and the Supervisor have decided that the project should wait until warmer weather in the Spring. He stated that if anyone is interested in signing up for HEAP, he will begetting more information, but there are signups in the Town of Concord every other week, and he and Councilman Montgomery are working on a date for a joint HEAP/Food for All sign up day here in Sardinia.

Councilman Montgomery stated that the septic system project, along with the inside plumbing, is now done. He stated he was going to report on the Yellow Dot Program, but Legislator Mills covered that. He noted that Sheriff Howard was at the Senior Citizens Christmas dinner put on by the Kiwanis at the Fire Hall, and explained that the program is that if you have a special medical condition, you fill out the forms, place them in either your refrigerator or your glove compartment, or both, and put the yellow dot sticker in the car window or house window where it can be seen by first responders, who can then give treatment accordingly.

Councilman Earl reported that the Friday Night Recreation program is going well, and that on December 21<sup>st</sup>, there will be a Christmas party for recreation, with Santa and Mrs. Claus, and refreshments which are being made and donated by the Girl Scouts. She stated that some of the upcoming events being discussed by the Youth Board include a baseball clinic in March. She stated that the chess lessons are being well attended as is men's basketball. Winter events are also being discussed, including a trip to Colden Tubing, and possibly bowling, Zumbatomics, etc. She stated she has been looking into the pool lift, and has 3 quotes, which she will discuss later on in the agenda.

Councilman Miller stated he had attended the Erie County Water Quality Committee meeting, which was covered earlier, and this morning, he attended the Southtowns Community Enhancement Coalition breakfast meeting. He stated they are looking for any interesting photos from the Town, recipes, anything like that. He stated they could be forwarded to him and he will forward on. Mr. Miller stated the committee held a recent "Farm to Table" dinner in North Collins recently and 110 people were on hand at \$85.00 per plate. He stated that Northeast Organic Farming Association of NY is looking for support from the Committee. Councilman Miller stated he has been appointed to a committee of the Scenic By-Ways organization, which also includes representatives from Concord, Collins, and Hamburg. This committee was formed to expand the Scenic Byways. He also stated that the October 2013 meeting of that organization will be hosted by the Town of Sardinia, location to be determined.

Highway Superintendent Donald Hopkins reported that he was going to discuss the bid for the roof on the Highway Garage which is in need of repair, but noted that it is on the agenda later, so he moved on. He stated that during the recent wind storm, many of the flagpoles along the roads were damaged, as well as many flags ripped, and will need to be replaced. He stated he will be looking for a combination package of flag & pole together. He stated he has also received 2 complaints about garbage totes getting hit by State & County snowplows. He stated he has informed people that Waste Management will not leave their garbage if they put it a little bit up from the roadside, and advised them to do so, and he has asked Tom Lewis of Waste Management to speak to his guys about leaving them further off the road after emptying them.

Attorney for the Town Linda Joseph gave a report of legal issues handled during the month. She stated she did some legal follow up concerning the septic system project, including the insurance and other legal issues; attention to the bid specs for the Highway Garage roof; reviewed the Special Use application submitted by Waste Management, which will be referred to the Planning Board tonight; looked at some of the legal issues pertaining to the Gernatt application; and looked at some legal issues with respect to the Firemen's contract negotiations.

The Supervisor stated she has two pieces of correspondence, and read them. The first was a letter from the Chaffee-Sardinia Kiwanis thanking the Board for their support and donation for the Senior Citizens Christmas dinner, and the second was a thank you card from Dottie and Fran Beyer for the Senior trips, flu clinic, rabies clinic, and many other things, including the Senior Citizens Thanksgiving dinner at the Holland Willows.

The Supervisor stated that there are several budget transfers necessary. The following resolution, to be known as Resolution #59 of 2012, was moved for adoption by Earl, seconded by Montgomery, as follows:

**RESOLUTION #59 - 2012  
APPROVAL OF FUND TRANSFER**

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

<b>TRANSFER FROM</b>	<b>AMOUNT</b>	<b>TRANSFER TO</b>
A1620.471 Comp. Upgrades	\$69.95	A1620.470 – Computer
A1620.471 Comp. Upgrades	\$1383.97	A1620.490 - Building/Other
A1660.470 Copier	\$34.93	A1660.490 – Cntral Storeroom
A3120.200 Police Equip	\$109.25	A3010.400 – Public Safety
A3620.110 CEO PS	\$78.92	A1650.100 – Sec Pool
A5132.410 Garage/Elec	\$25.59	A5132.490 – Garage/Other
A7110.200 Parks Equip	\$463.23	A7110.401 – Parks Util
A7180.100 Spec Rec PS	\$1127.87	A7140.120 – Playgrounds PS
A9060.800 Hospital/Medical Ins	\$1453.52	A9040.800 – Workers Comp
DA5142.450 Sand/Salt	\$1575.67	DA5110.440 – Road
DA9030.800 Social Security	\$2470.99	DA9060.800 – Hosp/Med Ins
DA9089.800 Medicare	\$1893.17	DA9040.800 – Workers Comp
SL5482.422 Miller Ave	\$112.97	SL5182.413 – Chaffee Hamlet
SL5182.423 Allen Rd West	\$114.74	SL5182.424 – Timelessview Dr.
Reserve Fund	\$9398.56	A8090.400 – Environmental Fund

**NOW, THEREFORE, BE IT RESOLVED**, the Sardinia Town Board approves the above mentioned transfer of funds for 2012.

Upon roll call vote, Earl, aye, Miller, aye, Montgomery, aye, Morrell, aye, Hannon, aye. Carried, 5 ayes, 0 noes.

**Warrant #12 of 2012, including vouchers #775 through #865, totaling \$127,595.87, of which \$58,524.59 was General Fund expenditure, \$62,889.28 was Highway Fund expenditure, \$1,158.67 was Street Lighting, and \$5,023.33 was Fire District expenditure, was approved for payment on a motion by Earl, seconded by Morrell, and carried, 5 ayes, 0 noes.**

In Unfinished Business:

The Supervisor then moved on to discussion of the Gernatt application on a Mining Overlay District. She read a letter received by e-mail from the Erie County Department and Planning Commissioner Maria Whyte. The letter urged the Town Board not to take any action on the proposed Mining Overlay District until at least mid-January to give the DEP time to thoroughly review the matter and to allow consultation with the Erie County Agricultural & Farmland Protection Board on this matter; permit DEP staff to compare the Overlay district against the goals and policies contained in the Erie & Niagara Counties Framework for Regional Growth and the Erie County Farmland Protection Plan; and suggested that further analysis of the proposed action against the County Plan is warranted and they feel that there may be gaps in the SEQR. The Supervisor stated the Board has also received two comment letters, one from Bob & Kathy Kaiser, and one from Marjorie Vesley, both not in favor of the mining district proposal. Supervisor Hannon stated that SHE AND THE Board have listened to all of the comments. She stated this application has been in process since April and is not anything the Board put out, and is on Gernatt's lap. She stated that the Planning Board downsized the proposal from mining in all Agricultural districts in the Town. The Supervisor stated she wanted to choose her words wisely because there are always seem to be a way of people twisting them for her. She stated she takes offense that this letter from the County would come two days before the Board meeting. She stated the Town gave them notice in October. Attorney Joseph stated they had 30 days in which to respond. Supervisor Hannon stated the Town gave them this extra time to respond, and now all of a sudden, they have concerns about it. She stated it is pretty straight forward, and if there are concerns, why didn't the Town get a call within the 30 days telling the Town about an extension? The Supervisor stated it looks to her like the County is stepping on the Town's toes, doesn't want this to go through, and she is a little annoyed that agencies would come in and tell people how to utilize their land. She stated that this Board has always been on the side of promoting, to give people opportunities, not on the side of restrictions. She stated she doesn't believe this mining district is a restriction. She stated there was a time when an individual spoke during a public comment period and complained about a truck across the street and stated they at one time enjoyed having a cup of coffee on their front porch, and no longer can because a truck is parked in that area. She stated that her husband had agreed, stating we shouldn't have to deal with that because we are in the country. She stated she had disagreed, stating it is not their land. The Supervisor stated they have neighbors that are dear to them, and she is not complaining about them, but they built a garage and now a two story barn in their yard, and they used to like to enjoy a cup of coffee and watch the sunset, and now they can't enjoy that, but it is not their land. She stated it is not up to anybody to say what you can and cannot do on somebody else's land. She stated if you don't own the land, she does not agree with you that you have a say on what they can and cannot do. She stated there are farmers out there who have been born and raised to farm their land. She just reported on what the banks are saying about the economy, and stated people don't have money to farm any more. She stated if they do, they are going into huge areas that are the areas we are talking about, they don't even want to look at. Why would the Town or any other organization, walk in and say you can't do that because we want you to keep it in farming? The Supervisor stated there are people here that have already divided their farmland that they were born and raised on to build a house; they are not using that area for farmland. What happens when all these farmers move away? Who are they going to sell it to? Who's going to be the next farmer? An audience member stated there are generations to carry that on. The Supervisor stated that sometimes those generations don't want to do it. The audience member stated "but some do". The Supervisor stated this is just her opinion, and the Board certainly has the right to vote any way they want. She stated the way she is looking at it, Gernatt's is just a company, they are looking for an opportunity to expand, and she doesn't think the Town has the right to say they can't do that. She stated it is not just Gernatt's that we are looking at, it is any other mining company. Another audience member stated "so you are just going to turn Chaffee into one big giant gravel pit." Another audience member asked the Supervisor what business her husband is in, and she stated he is a landscaper, excavator, contractor. Another audience member stated that what one person does with his land effects everyone. Supervisor Hannon then asked Board members if they wanted to vote on the proposed Mining Overlay District tonight, whether or not they wanted to waive the County request asking for an extension. **Councilman Montgomery made a motion to waive the extension requested by the Erie County DEP, and vote on the proposal tonight. The motion was seconded by Earl, and upon roll call vote, Earl, aye, Miller, no, Montgomery, aye, Morrell, abstained, Hannon, aye.** The Supervisor then asked the Board members if they had any comments. Councilman Morrell stated that reason this mining business got started was because farmers couldn't afford to continue farming, so they sold their land where they could get some money. Now everyone says "Oh, look at all the pretty farms" but he asked if anyone knows how much it costs to make the farms go. He asked why there is only one farm left on Savage Rd. actively farming, and it's the same way in the whole Town. He asked if you think were going to sit here and not change. Councilman Montgomery stated he would like an opinion on the value of the property. He stated he brought it up at the beginning of the process, but no one has answered. He stated he would like Gernatt to go out and come back with a definite yes or no, as to if the property values are going to go down or up. He stated no one comes up with an answer. Councilman Earl stated it is a touchy subject. She stated she had been a farmer, she is not anti-business, she is not anti-gravel, she is not anti-Gernatt, nor anti-homeowner. She stated she understands that if you have gravel land, your property may be more valuable, and if you have a gravel mine in your backyard, she understands that the residents' issue is you have a big hole behind your house. She stated that the Planning Board went this way to avoid spot zoning. Councilman Earl stated she can understand that Gernatt's wants to be able to use their land, but has reservations on the Mining Overlay District. She stated this has been a difficult thing; is she ready to vote? She always would like more time, but the vote is going to have to happen. Councilman Miller stated he has a lot of reservations, and has been told that it will be political suicide either way. He stated that he is not here for the political side, and does not care if he has this job or not, but he is for the people of this Town. He stated that this process has been going on for 9 months but the Tri-County Business Park has been stalled by this Board since 2004.

Public Comments:

John Schiener of Sardinia stated that on Election Day, we had questions and a survey that had some questions of questionable accuracy about the Fire Company, a banquet hall, wi-fi, and he wanted to know why the question of gravel mining, which would have a huge impact on the Town, was not on the survey. He also told everyone in attendance that they can find out what the Fire Company is doing by visiting their website at either sardiniafire.org or chaffeefire.org.

Michelle Harmon of Chaffee stated that the Gernatt gravel mine is getting closer and closer to being in her back yard. She stated that the Supervisor stated earlier that we need to strike a balance, reach a compromise. She stated she feels we have already done that. She stated Gernatt has what they have and they are not going to stop any time soon. She stated we have the power right now to say no more. She stated she feels that just because they want it doesn't mean we have to let them have it, stating we have given enough.

The Supervisor asked Mr. Sorgi if he would like one last chance to comment, and he stated that the people in attendance can have their opinions but asked them not to yell at the Board. He stated that the easiest thing to do would be for the Board to do would be to deny this proposal, but they have a job to do.

Norm Uhteg of Sardinia asked Councilman Morrell if he has a conflict of interest. Mr. Morrell stated he did not, and stated he hasn't owned the farm for 18 years, and has nothing to do with the farm. Mr. Uhteg asked "you have nothing to do with the farm now? Mr. Morrell stated he just works there. When asked who owns it, Mr. Morrell's stated his son owns it. Attorney Joseph stated she had researched the conflict of interest question, and advised that Mr. Morrell does not have a conflict of interest since he does not own the farm, and, as a Board member, has a right to vote .

Jim Witter of Sardinia asked Supervisor Hannon if she has a conflict of interest, and the Attorney for the Town stated that the Supervisor does not have a conflict of interest that she knows of. The Supervisor stated she does not. She was asked by another audience member if she feels she is biased. Mr. Witter asked if her husband owns a gravel mine, and she stated "Not in the Town". The Supervisor stated her husband owns a gravel pit in the Town of Concord, where there is open mining.

The Supervisor stated that the Board must now look at the SEQR, Part II. She reminded the Board that this is not a permit to mine, and that anyone wishing to mine must go through the DEC application process. She stated this just lets the Town say that they will have mitigation within the Town of Sardinia. **On a motion by Earl, seconded by Montgomery, the Board gave the Zoning amendment to create a Mining Overlay District a Negative Declaration of environmental impact. Upon roll call vote, Earl, aye, Miller, no, Montgomery, aye, Morrell, aye, Hannon, aye.**

She stated that the next order of business is to vote on the Mining Overlay District. She stated that the County has informed her that because the Board has waived it rights, a Super Majority is needed for the vote. **On a motion by Montgomery, seconded by Earl, the Board voted to adopt the Proposed Local Law #3 of 2012, an amendment to the Zoning to create a Mining Overlay District. Upon roll call, Earl, aye, Miller, no, Montgomery, aye, Morrell, aye, Hannon, aye.**

Supervisor Hannon then discussed the exit survey taken at the November election. She stated the results are now on the Town's website. She stated that the first question was for a municipal building that would be occupied by the Chaffee-Sardinia Fire Company and the Chaffee-Sardinia Senior Citizens in a centrally located area. She stated there were 730 who responded to the survey, or 1/3 of the voters. Of those, 408 responded yes, 284 no, and 38 were undecided. She stated that question Number 2 was the Town's researching the availability of Broad Band in the Town, and if this becomes available, would you be interested in acquiring Broad Band. The Supervisor reported that the response was 473 yes, 231 no, and 26 undecided. On the question of Are you a member of the Fire Company, the response was 32 yes, 648 no, and 50 undecided, and on the question of Are you a Senior Citizen, the response was 279 yes, 408 no, and 43 undecided. She stated that the only extra things she added up were If you are a fireman, would you want a new municipal building, and the response was 17 no, 8 yes, and 7 undecided, and If you were a Senior Citizen, would you want a new municipal building, and the response was 121 no, 140, yes, and 18 undecided. She stated there was also a spot for comments, and she got a notice that the Fire Company would not come to her house. Many audience members stated their disbelief, and one audience member stated "That is not a fact. Show us. We would never do anything like that." She stated that all of the papers have been saved if anyone wants to review them. The Supervisor stated the Board can now look at those questions. She stated that she and Councilman Earl have attended a seminar on Broad Band, specifically wi-fi, and she stated the cost is extremely high. She stated that Time Warner's contract is coming up the year after next, so that would be something that could be discussed then, and she has spoken to the Time Warner representative to see if there is something more we can offer our residents, possibly relaxing their requirements for the number of residences on a road. Supervisor Hannon stated she felt the exit survey was well worth conducting, and it is interesting to see what people are thinking.

The Supervisor also stated that in regard to the Firemen's contract negotiations, she has a meeting set up with Company President Danny Heineman on December 17<sup>th</sup> at 6:30 PM. She also reported that the Fire Company's treasurer's report for September and October 2012 has been received; that will be filed.

Supervisor Hannon informed that a letter of resignation had been received from Planning Board secretary Colleen Cottrell, effective at the end of the year. The Supervisor stated they will be advertising the position, and she and Councilman Earl will then interview applicants.

The Supervisor stated that, concerning the new roof bidding for the Highway Barn, the only question she had was discussed with Attorney Joseph, who suggested that the Town acquire an engineer to confirm that there are no Sole

Source issues. She stated that the Attorney also suggested that a paragraph be added as far as requiring prevailing wage certification.

Councilman Earl then reported on the ADA approved pool lift project, and stated that she had 4 quotes for the equipment, but is down to 3, since she has not been able to make contact with one company, even though she has been trying since July. The different types of lifts were briefly discussed. Supervisor Hannon stated application for the lift had been made for the CDGB grant, she contacted to see if she could get a heads up on whether or not we were awarded the grant, and Sardinia was not on the list. The amounts quoted were then discussed, and were as follows:

Aqua Creek	\$4320.94
Global Lift	\$3789.82
SR Smith	\$4665.65

Councilman Earl stated there is also an extra battery and cover package available, but was not included in every quote. She stated that the cheapest quote is from Global Lift at \$3789.82. She stated she will try and get quotes which include the extra batteries and cover, and it was decided to delay any further discussion or decision until the January meeting.

The Supervisor noted that Waste Management representative Tom Lewis has provided their quarterly report, which is available at the front table for anyone interested, and also on the Waste Management website.

Supervisor Hannon also noted that the Board has received an application from Waste Management for a Special Use Permit for its "Valley Fill Landfill Expansion". She stated that has been referred to the Planning Board for recommendation.

Supervisor Hannon stated that the Board would need to hold an Executive Session, but first announced that there will be a Public Hearing on the Firemen's contract on Thursday December 27<sup>th</sup> at 6:15 PM, and also the End of the Year 2012 Meeting would be held on Thursday December 27<sup>th</sup> at 6:30 PM.

On a motion by Earl, seconded by Miller, the Board moved into Executive Session at 8:12 PM to discuss a legal matter. Carried, 5 ayes, 0 noes.

The Board returned to Regular Session at 8:17 PM on a motion by Montgomery, seconded by Morrell, and carried, 5 ayes, 0 noes.

There being no further business to come before the Board, on a motion by Earl, seconded by Morrell, the meeting was adjourned at 8:18 PM. Carried, 5 ayes, 0 noes.

Respectfully Submitted,

Town Clerk