

## 6-10-2012 – 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:

Highway Superintendent Donald W. Hopkins  
Town Clerk Betsy A. Marsh  
Approx. 15 guests

The Sardinia Town Board held its Regular Town Board meeting for June on June 14, 2012 at the Sardinia Town Hall/Community Center. Supervisor Hannon called the meeting to order at 6:30 PM, with the Pledge to the Flag and a moment of silence in memory of former Councilman Gerard Bockhahn.

The Town Clerk has submitted the minutes of the May 10, 2012 Regular Board Meeting. On a motion by Earl, seconded by Morrell, those minutes were approved as written. Councilman Miller abstained, stating he had not been at the meeting, and did not feel he could vote to approve. Carried, 4 ayes, 1 abstention, 0 noes.

Departmental Reports included:

Supervisor Hannon reported that:

- Waste Management's quarterly report is on the front table, and also on the Waste Management website
- The Board has received an application for a Special Use permit, and a Site Plan review application for a property in the Town, and they have been forwarded on to the Attorney as well as the Planning Board
- She had sent a letter to the Fire Company asking if they would perform a controlled burn if the Town should need to demolish a property, and she has now received a response from Fire Chief Mike Shaw stating that unless the demolitions are an emergency situation, they will not
- She met with Legion members Tom Uhteg and Larry Quinn to discuss her concerns about the scholarship they give to a Pioneer Central senior each year, feeling that there are three school districts in the Town and they should pick a Town of Sardinia senior from one of the three districts, instead, and they stated they would work with her on this
- She talked to Mike Bialecki, the Scout Leader, concerning the Eagle Scout project at the Rt. 39 cemetery, and he informed her that it will not be possible to place the fence in the front of the cemetery after all due to it being too close to Rt. 39
- She has an issue with the LOSAP program and is waiting the Comptroller's office for an opinion
- She received information from the NYS Public Service Commission of a change in the Lifeline program, which is a program to assist Senior Citizens and low income households with phone and cell phone bills. The changes are designed to prevent fraud and waste in the program. If anyone is interested in knowing more about the program, they can contact her or the Town Clerk.

Councilman Morrell reported that he had gotten 2 quotes for elevator maintenance agreements, as follows:

- ThyssenKrupp Elevator \$414.00 quarterly
- Elevator Maintenance Co. \$300.00 quarterly

Mr. Morrell stated that the Elevator Maintenance representative met him here, showed him how the elevator works, and told him that we need to get the phone line reconnected. The Supervisor stated that the Caretaker, Al Hansen, was going to reconnect the line. He explained that the phone would call from the elevator directly to Elevator Maintenance's office, and they would dispatch assistance. Councilman Morrell stated he would recommend that the Town go with the lowest bid, Elevator Maintenance Co. He also stated that the current contract runs out July 9<sup>th</sup>. **A motion was made by Montgomery, seconded by Miller to approve entering into an elevator maintenance contract with Elevator Maintenance Co., pending review and approval of the Attorney for the Town, Linda Joseph. Carried, 5 ayes, 0 noes.** Mr. Morrell stated that there had been one street light outage, on Deerfield Dr., and he assumes it has been fixed. He asked that anyone knowing of a street lighting problem, contact him.

Councilman Montgomery reported that he had attended a Disaster Coordinators meeting concerning the Wireless Emergency Alert System for cell phones. He stated there are 3 types of alerts, include weather alerts, Amber alerts, and Presidential alerts. Mr. Montgomery stated that a person may opt out of weather and Amber alerts, but not Presidential alerts, and stated that if anyone is interested, he will leave the paper with the Town Clerk. Mr. Montgomery reported that, concerning the new doors on the building, we are waiting for the closers, which will be here in about a week, and they were also sent the wrong door, so we are also waiting for the correct size door, also. Councilman Montgomery stated that those who took the CPR/AED class 2 years ago need to recertify, and he has set up a class here at the Town Hall for July 11, at 6:00 PM. He asked if that date was a problem for anyone, and no one had an objection. Supervisor Hannon noted that Caretaker Al Hansen is also working to increase the lights on the outside of this building.

Councilman Miller stated he had missed the last Erie County Water Quality committee meeting because he was out of Town and noted that those meetings take place on the 3<sup>rd</sup> Wednesday of every other month. He stated he received their newsletter and will be receiving a water quality survey which he would like to see all Board members, Planning Board

members, and the Highway Superintendent each fill one out. Mr. Miller stated he received an ad for dog waste bag dispensers, and wondered if anyone was interested in buying them for the Parks, stating that maybe people would use them. Councilman Earl stated she felt it was an issue, and Mr. Miller stated he would like to see one at each Park.

Councilman Earl reported that the Townwide Garage Sales will be held on July 13, 14, and 15, and registration will again be \$10.00. Anyone wanting to register may call the Clerk's office. She also reported that the pool will be opening Saturday, June 23, and the Recreation program will start the Monday after the 4<sup>th</sup> of July, on July 9<sup>th</sup>. Ms. Earl stated that there will be staff orientation this Saturday, June 16<sup>th</sup>, which will also include a joint rescue exercise with the Fire Company. Councilman Earl stated that the Rec Dept. would like to hold a Bicycle Rodeo at Manion Park, tentatively scheduled for Saturday July 21<sup>st</sup> in the morning. She stated it would be free to Town residents, and the only cost to the Town would be Recreation staff payroll. **On a motion by Earl, seconded by Morrell, the scheduling of a Bike Rodeo at Manion Park was approved, and carried 5 ayes, 0 noes.**

Highway Superintendent Hopkins reported that the new roller and trailer have been used a lot already, at the Genesee Rd. Park, where they have been blacktopping. He stated they will be sealing the new blacktop after the Carnival. Mr. Hopkins stated he would like to put the old roller and the 1972 grader out to bid on Auctions International, stating he would like to free up the space at the Highway Garage. He noted that the roller is non-working, but might be purchased for parts. **On a motion by Earl, seconded by Morrell, the Board gave the Highway Superintendent permission to list the equipment on the internet, on the Auctions International site. Carried, 5 ayes, 0 noes.** Mr. Hopkins reported that the pool has now been pumped out and cleaned, and he thanked the Fire Company for the use of their pumps. He stated it would have taken days to do it any other way, and with the use of their pumps, it only took approximately 5 hours. He stated that the pool is now about 14 inches away from being full and operating. The Highway Superintendent stated that he met with Mark Gaston of Erie County Soil & Water concerning the run-off on West Schutt Rd., which Gernatt had maintained in the past. Mr. Hopkins stated that the creek bed is now to the point that it is level with the sluices, which are now half full of gravel. He stated they discussed digging down the ditch bed, and putting the excavation material in the old gravel pit, to be possibly used for repairs to the Sebzda property wash out. Mr. Hopkins stated, however, that he would need permission from the Town Board to go off public property to do so. Mark Gaston was on hand, and recommended to the Board that Mr. Hopkins be allowed to do so. The Supervisor stated that since he would be working with Erie County on the project, the Board could go ahead and approve. **On a motion by Miller, seconded by Earl, the Town Board gave the Highway Superintendent permission to go off public property to allow the project to go forward. Carried, 5 ayes, 0 noes.** Mr. Hopkins stated that his department is also continuing with skid paving, chip sealing, ditching, and brush cutting.

Attorney for the Town Linda Joseph reported that she has been working with the Tax Assessor on researching the Waste Management tax exemption issue; working on the Tri-County Business Park issues, and has attended a couple of meetings, one with Manfred Koch, the developer, and one with the Planning Board, as well as addressing some of the related Hutchinson Rd. issues; has been giving on-going advice with regard to LOSAP issues, and personnel issues, and giving general advice from time to time as issues come up.

There were no Public Comments.

**Warrant #6 of 2012, including vouchers #343 through #425, totaling \$85,435.71, of which \$28,478.84 was General Fund expenditure, \$54,424.71 was Highway Fund expenditure, \$1,625.36 was Fire District expenditure, and \$906.80 was Street Lighting, was approved for payment on a motion by Earl, seconded by Montgomery, and carried, 5 ayes, 0 noes.**

Under Unfinished Business:

Supervisor Hannon stated that there has been an ongoing problem, about one and one half years now, concerning a residential wash-out on Rt. 39, specifically on the Larry Sebzda property, but it is now effecting other properties, as well. One of the other property owners was on hand, as was Mark Gaston of Erie County Soil & Water, who spoke on the issue. He stated that his agency is a conservation agency which works primarily with agricultural issues, and that they had been out to the Sebzda property a number of years ago and gave some recommendations, but the property has continued to deteriorate due to high ground water tables and gravel soils. He stated that the erosion problem is basically being caused by the start of a new tributary to the Hosmer Creek. He stated that they can come up with a design to alleviate the issue, but not funding. Mr. Gaston stated there is \$6,000.00 in a matching funds grant available from the State, but the Town would have to provide 50% in in-kind services and materials. Discussion on the project continued, with Mr. Gaston explaining that they can do a drainage system and plantings, but cannot repair septic systems. He stated they have received 2 estimates from engineers, and the estimates are between \$20,000 and \$26,000. He stated that the Town could bid the work out. Mr. Gaston stated that Erie County Soil & Water would only be overseeing the project, and would need the permission of the landowners to go on their properties. He stated that the best access would be on the gas station, or west side of the property, and Kristy Slippy of Rt. 39 on the east side, was on hand and stated she had no concerns about trucks or equipment using her property. Mr. Gaston stated there is also a beaver problem, which they are working on, also. Councilman Montgomery stated he is concerned about the septic lines that they will be driving over, and Mr. Gaston stated that they will be dead-ending the septic systems, but the work will be well below where the septs are. He stated that any septic problems are the responsibility of the landowner. He stated he doesn't anticipate any problems with the project, and suggested that the Town use as much in-kind service and materials as possible. **On a motion by Earl, seconded by Montgomery, the Board voted to approve having the project go forward, and to have the Town help fund the project, at least the matching funds for the initial \$6,000.00 State grant. Carried, 5 ayes, 0 noes.**

Under New Business:

Supervisor Hannon stated that The Girl Scouts Enchanted Mountains Northeast Troop #10912 helped with the painting of the fences at Veteran's Park in May, and she then read and presented them with a Certificate of Appreciation for their volunteerism. Scout Leader Crystal Killingbeck and Girl Scout Anna Killingbeck were on hand to accept the certificate.

Supervisor Hannon stated that the Town Board has sent a proposed Local Law to the Planning Board, which has now reviewed the proposed legislation concerning dangerous structures. She stated that this Local Law repeals a Local Law already on the books. The Supervisor scheduled a Public Hearing on this Local Law for July 12, 2012 at 6:15 PM. The following resolution, to be known as Resolution #37 of 2012, was then moved for adoption by Montgomery, seconded by Morrell:

**RESOLUTION #37 - 2012  
APPROVAL TO REPEAL LOCAL LAW # 2 of the year 2007 and  
APPROVAL OF LOCAL LAW #2 of the year 2012**

**WHEREAS**, the Planning Board has recommended to the Town Board certain changes to the Town's Code, Local Law No. 2 of the year 2007 **in regards to the Unsafe or Dangerous Structures** which call for the repeal of Local Law No. 2 of the year 2007 and substitution of new law in its place to comprehensively deal with Unsafe or Dangerous Structures; and

**WHEREAS**, prior to submitting the proposed law which will substitute for the proposed repeal of Local Law No. 2 of the year 2007, the Town Board has received and reviewed the Planning Board's recommended changes and has accepted the proposed new law as set forth in the proposed law circulated to the Board Members with the following language to be enacted upon the repeal of Local Law No. 2 of the year 2007:

TOWN OF SARDINIA  
LOCAL LAW 2 - 2012  
AMENDMENT OF TOWN CODE TO ADD  
A NEW SECTION 49: UNSAFE OR DANGEROUS STRUCTURES

**WHEREAS**, the Town Code currently does not provide the Town Code Enforcement Officer with the authority to order and carryout the repairs and/or demolition of unsafe and dangerous buildings and structures; and,

**WHEREAS**, the Town has determined that the current remedies available to the Town to address unsafe building and structures are inadequate:

**NOW THEREFORE BE IT RESOLVED**, pursuant to the authority granted the Town Board under Section 130 (16) of the Town Law, that the Town Code of the Town of Sardinia, be, and the same hereby is amended by adding a new section \_\_, as follows:

\_\_\_\_.1 Declaration of Purpose:

Abandoned and neglected properties can pose a safety hazard to the public. The purpose of this provision is to set forth the procedures by which the Town can ensure that unsafe building and structures are either repaired or demolished by the owner of the property on which they are located, and in the event that the owner fails to do so, for the Town to remove said building and structures and to recover its expenses.

\_\_\_\_.2. Inspection

Whenever it appears to the Code Enforcement Officer that a building or structure is so deteriorated or damaged, by any cause, and that the building or structure has become, or is in danger or becoming, dangerous or unsafe to the public, the Code Enforcement Officer shall cause said building or structure to be inspected. The Code Enforcement Officer, may request, if appropriate, that the Town Board authorize him/her to retain the services of a qualified engineer to assist the Code Enforcement Officer in determining whether the structure is unsafe and what action should be taken to make the building or structure sound, and/or whether the building or structure should be removed and/or demolished.

\_\_\_\_.3. Report

If the Code Enforcement Officer finds that the condition of the building or structure is such that it is dangerous or unsafe to the public, he/she shall file a report with the Town Board stating his conclusions and recommendations as to the actions required to be taken to either make the building or structure safe and sound, or that the building or structure should be removed and/or demolished. Such report shall set forth the facts supporting the Code Enforcement Officer's conclusions and recommendations.

\_\_\_\_.4. Service of Notice

(a) The Town Board, upon receipt of a Report from the Code Enforcement Officer shall cause a notice to be served on the owner or some one of the owner's executors, legal representative, agents, lessees or any other person having a vested or contingent interest in the same, either personally or by registered mail, addressed to the last known address, if any, of the owner or some one of the owner's executors, legal representative, agents, lessees, or any other person having a vested or contingent interest in same, as shown by the records of the receiver of taxes and/or in the office of the county clerk or county register.

(b) If service of the notice is by registered mail, a copy of said notice shall be posted on the premises.

\_\_\_\_.5. Contents of Notice

The notice provided for in Section \_\_\_\_4 shall contain the following:

(a) A description of the premises.

(b) A statement of the particulars in which the building or structure is unsafe or dangerous.

(c) An order requiring the same to be made safe and secure or removed and a statement that the work required may be commenced immediately and when it shall be completed.

- (d) A statement that the Town Board will hold a hearing at a specified time and place, to determine if the Town shall repair, or otherwise make safe and secure, or remove the building or structure and fill any excavation in connection therewith, if the order is not obeyed and for the assessment of all costs and expenses incurred by the Town in connection with the proceedings to remove or secure, including the costs of actually removing said building or structure, against the land on which said building or structures are located.

\_\_\_\_.6. Filing of Notice, Effective Period, Vacation

A copy of the notice shall be filed in the Erie County Clerk's office. The County Clerk shall file the notice in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules. When filed, the notice shall have the same effect as a notice of pendency, except as otherwise provided in this Section. The notice shall be effective for a period of one year from the filing date, unless earlier vacated by order of a judge or justice of a court of record or upon the consent of the Town Attorney, as authorized by the Town Board. Upon the filing of an order or consent vacating the notice, the County Clerk shall mark the notice and any record or docket thereof as cancelled of record.

\_\_\_\_.7. Hearing

There shall be a hearing before the Town Board, notice of which and the time and place thereof to be specified in the notice to repair or demolish.

\_\_\_\_.8 Removal of Structure

Following the hearing, the Town Board shall provide for the removal of any building or structure which the Town Board determines to be unsafe, or take whatever other action the town Board deems appropriate in its sole discretion, in the event that the owner fails or refuses to repair or remove the same within the time provided.

\_\_\_\_.9 Assessment of Costs

The Town Board may assess all the costs and expenses incurred by the Town in connection with the proceedings to remove or secure a danger or unsafe building or structure, or other action take it deems appropriate, including without limitation, the costs of actually removing said building or structure, against the land on which said building or structure is located.

\_\_\_\_10. Action to Abate Immediate Hazards

If, as a result of the inspection required under Section \_\_\_\_, the Code Enforcement Officer determines that the condition found dangerous or unsafe constitutes an immediate hazard to persons or property, he/she may take any or all of the following actions:

- (a) Order the building, or structure involved, vacated in which event it shall not thereafter be occupied until a new certificate of occupancy has been issued as provide in the Zoning Ordinance and Building Code;
- (b) Close any street or sidewalk abutting the land involved or with the area of immediate peril;
- (c) Erect or cause to be erected temporary barricades, warning devices or other temporary enclosures or structures; and/or
- (d) Take such other action as he/she may deem necessary for the protection of person and other property from the risk of immediate injury.

\_\_\_\_. 11 Severability

Should any section or provision of this chapter be or be held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the chapter as a whole or any part thereof other than said invalid or unconstitutional part.

Upon roll call vote, Earl, aye, Miller, aye, Montgomery, aye, Morrell, aye, Hannon, aye. So Resolved.

The Supervisor then asked for a motion to move into Executive session for the purpose of discussing a personnel issue. A motion was made by Montgomery, seconded by Earl, to move into Executive Session at 7:11 PM. Carried, 5 ayes, 0 noes.

The Board came back at 7:43 PM, and on a motion by Earl, seconded by Montgomery, moved back into Regular Session. Carried, 5 ayes, 0 noes. Supervisor Hannon stated that the Board had not taken any action during Executive Session.

There being no further business to come before the Board, on a motion by Earl, seconded by Montgomery, the meeting was adjourned at 7:44 PM. Carried, 5 ayes, 0 noes.

Respectfully Submitted,

Town Clerk

