

1-14-2009 – REGULAR BOARD MEETING

Present:

Councilman Mary L. Hannon
Councilman David L. Montgomery
Councilman Heather M. Phelps
Councilman Norman J. Uhteg
Supervisor Kathleen M. Balus

Also Present:

Attorney for the Town Anthony DiFilippo, III
Highway Superintendent Walter J. Baker
Town Clerk Betsy A. Marsh
Approx. 35 guests

The Sardinia Town Board held its Regular January Town Board meeting for 2009 on January 14, 2009 at the Sardinia Community Center. Supervisor Balus called the meeting to order at 8:25 PM, welcoming Councilman Mary Hannon to the Board. She then asked for a moment of silence, with the Supervisor asking that everyone keep in mind the family of Lillian Noel, and our Servicemen and women serving our country in Iraq and around the world. Supervisor Balus then led the Pledge to the Flag.

The Town Clerk has submitted the minutes of the December 10, 2008 Regular Board meeting and the December 30, 2008 End of the Year meeting, which were approved and filed on a motion by Phelps, seconded by Uhteg, and carried, 5 ayes, 0 noes.

The Supervisor stated that the Board will need to go into an Executive Session to discuss contract negotiations with the Highway Employees Association, and the Board agreed to do so at the end of the Regular meeting.

The Supervisor gave her report for the month, which included:

- The Community Cause Committee is looking for volunteers to head up that committee for this year;
- She stated that for most of the month, she had worked on the Organizational meeting;
- Setting up and finalizing the bank accounts at Chase Bank in an effort to streamline the banking process;
- She stated she discussed the audit of Waste Management with Laura Landers and reminded that the presentation of that audit will be at the February 2009 meeting;
- The Supervisor stated that the dates for the Public Informational meetings with Don Brooks of Tomkins Insurance Agency and Damien Ulatowski have been set up for February 5th and February 7th to present and explain the C-S Fire Company Service Award to residents of Sardinia;
- She stated that her office is in the process of the payroll conversion, and the W-2 forms are now ready to be mailed and will be mailed next week;
- The unified Court system has given Sardinia Court a grant in the amount of \$972.00 for purchase of a desk and chair;
- The Supervisor stated that she and Councilman Uhteg met with TVGA concerning the Chaffee sidewalk project, which she stated is pending the outcome of the Chaffee Water upgrade. She stated they also discussed a proposal for a Parks feasibility study, a Master Plan to get the most out of the Town's Park space. She stated that TVGA will come back with a proposal for that next month. She stated that they talked about the Community Center and unfortunately, not a lot has been done about that, and they talked about the Historical Building and the renovations that the Historical Society is doing on that. She stated that they also discussed the formation of a water district, and the Best/Manfred Koch engineering study, which may be sent on to TVGA for review.
- The Supervisor stated that unfortunately, the Town was not given a grant for the pool renovations, and she stated that the Board will have to decide what to do if the pool is not up to code. She suggested that the matter be discussed with Highway Superintendent Baker for his input.

Under Items for discussion:

- The Supervisor stated that, concerning commercial trucks in a residential district, one of the parties now has an attorney and Mr. DiFilippo is dealing with that.
- Supervisor Balus stated that she has spoken to Assessor Thelma Hornberger concerning how complicated a process it is to enact a Homestead exemption for Town residents. She stated that by giving residents an exemption for zero taxes, the businesses, which some of them are assessed at a very high rate, would pay Town taxes, and we would be able to, as a Town, find the additional funds to support the Firemen's Service Award. She stated that by doing this, it would put the residents at ease to know that additional funds are coming into the Town. She stated she would like to get into this at a future date.
- The Supervisor stated that it is her understanding that the Park snowplowing has not been done. Councilman Uhteg stated it has not been done this week, and he will check with Don Hopkins to see why.

Councilman Phelps gave a report of Youth Committee activity. She stated that the Youth Committee is looking to do a winter field trip to Splash Lagoon on February 28th. She stated that the cost for 4 hours is \$17.99, and for the whole day is \$24.99. The Committee suggested that the cost could be \$10.00 per person for those who wish to drive themselves or \$15.00 for anyone taking the bus. She stated they have talked to a couple of bus services, and found that the bus is about \$55.00 per hour. Ms. Phelps asked for permission to advertise for Splash Lagoon. On a motion by Uhteg, seconded by Hannon, Councilman Phelps was given permission to run an ad for the Splash Lagoon field trip and sign-ups. Carried, 5 ayes, 0 noes. Ms. Phelps also informed that the Youth Committee has set the dates for the annual Townwide Garage Sale, and it is scheduled for Friday, Saturday, and Sunday, July 17, 18, and 19, 2009. Ms. Phelps also stated that a Town resident was concerned because the Backwoods Cloggers have been told to keep the heat off at

the Old Town Hall, and there is concern that the water will freeze. Councilman Uhteg stated that there are baseboard heaters in the bathrooms to keep the water from freezing, and the main furnace is being kept off because of the ceiling work.

Councilman Uhteg reported that the Highway Contract is being worked on, but is not finalized yet. He stated that the Historical Society has notified that the attic is now fully insulated to an R30 rating. He stated that they would like to hire a contractor to drywall the ceiling, at Historical Society expense. Attorney DiFilippo stated that the Town of Sardinia would need to be named as an additional insured on the proper insurance certificates, and because the Town owns the property, they need to have Town Board permission to do the work. Councilman Hannon asked if there has been an asbestos study done, and Mr. Uhteg stated there had been. Supervisor Balus stated a copy of the report would be provided to Councilman Hannon. Councilman Uhteg stated that the Historical Society also has asked if it is legal for them to pay the contractor and noted that they are also installing some electric heat in the building. Attorney DiFilippo stated that they are, in essence, donating to the Town, which is legal. Councilman Uhteg then made a motion to allow the Historical Society to hire a contractor to drywall the ceilings at the Old Town Hall, and to obtain from the contractor, the proper Certificates of Insurance naming the Town of Sardinia as a additional insured. The motion was seconded by Phelps, and carried, 5 ayes, 0 noes.

Councilman Hannon stated she would like to discuss the upcoming referendum vote procedure. The Clerk stated she is still awaiting information from the Board of Election as to who is responsible for what, and has not received very many answers, other than Commissioner Mohr relaying a message as to a section of law to review. The Town Clerk stated that the Board does need to set hours for the election. A motion was made by Montgomery, seconded by Hannon to set the hours for voting at 6 AM until 9 PM. Carried, 5 ayes, 0 noes. Absentee ballots were discussed, and it was uncertain as to who is responsible, and how it would be handled. The Supervisor stated she has seen a lot of abuse with absentee ballots. Councilman Hannon stated there are a lot of people who are in Florida this time of year, and that it would not be fair to them if they were not allowed the opportunity to vote on this issue. A majority of the Board felt that if it is legal and allowed, that absentee ballots should be allowed, and could be handled at a special meeting to decide. Mr. Uhteg stated that there was a letter to the editor in a local paper stating that there is a lump sum benefit at retirement, and that is not true. Councilman Montgomery stated that Don Brooks of Tomkins Agency told him that there was. Supervisor Balus stated that she would urge residents to get the facts from the knowledgeable people at the informational meetings on February 5th and February 7th.

Councilman Montgomery reported on the House numbering project. He stated that the Town needs to change the current Ordinance. He asked Attorney DiFilippo who would be responsible if the sign is knocked over or destroyed. Mr. DiFilippo stated that would need to be addressed in the ordinance, and suggested that Board members make a copy of the current ordinance, mark it up the way they would like it to read, and then he can review. Councilman Uhteg stated that East Concord Fire Dept. is applying for grant money to do a house numbering project in their district, and have offered to include Sardinia in the grant application. The Supervisor stated that the ball is in the Town's court.

The Attorney for the Town Anthony DiFilippo, III then reported on legal matters affecting the Town. He stated that on January 5th, 2009, the Town filed a Notice of Appeal in the Article 78 matter against the ZBA. He stated that it was served on the Town Clerk as clerk for the Zoning Board of Appeals, as well as the Town. Attorney DiFilippo stated that, concerning the Waste management Zoning Litigation, he attended a pre-trial conference with Judge Dillon, on December 16th, and a non-jury trial is scheduled for the first week in September 2009. He stated that he and David Seeger are working to put the Appeal together in the Waste Management Co-generation plant matter. Mr. DiFilippo stated that the insurance company is handling the Hornberger and West accident matters. He stated he also handled routine correspondence and questions concerning the Homestead exemption and how it would spread the fire tax. The Attorney stated that he would like the Board to add under New Business, a request received by the Town Clerk to sign a Bond Cancellation for a permit bond in the amount of \$25,000.00 from MCI. He stated the Clerk does not have a bond on file in her office, and he has contacted the Code Enforcement Officer, and no such bond is on file in his office. Mr. DiFilippo stated the bond was taken out on November 1, 2001, and had replaced a previous bond. He stated that the CEO at the time was Richard Porter. Mr. DiFilippo stated that he has received a copy of the Performance Bond, which stated that MCI had made application to the Town of Sardinia to "road build portion of the Buffalo, New York terminal to Sardinia New York Junction." Former Supervisor John Schiener stated that was for laying cable along the road right-of-way. The following resolution, to be known as Resolution #2 of 2009, was then introduced by Balus, seconded by Phelps:

RESOLUTION #2 – 2009

RESOLVED, the Sardinia Town Board hereby authorizes Supervisor Kathleen Balus to sign off on the MCI Bond dated November 1, 2001, in the amount of \$25,000.00.

Upon roll call vote. Hannon, aye, Montgomery, aye, Phelps, aye, Uhteg, aye, Balus, aye.

The Town Clerk read the disbursements made by her office during the month of December 2008, and the Code Enforcement Officer, Marvin Zielonka, submitted his report for December 2008. The Planning Board has submitted the minutes of its September 5th, December 3rd, and December 17th as well as the ZBA's minutes of its November hearing on Appeal #408. On a motion by Phelps, seconded by Uhteg, those reports and minutes were received and filed. Carried, 5 ayes, 0 noes.

Councilman Hannon questioned some of the bills, including the phone bill. She asked why we pay the pool phone remains on all winter. The Clerk explained that when the Town switched to MCI phone service years ago, the cost to turn the phone off and then back on was more than the monthly charges. They would not hold the phone number either, so each year the pool's phone number would have been changed. She stated that now that the Town's phone service has switched back to Verizon, the matter can be reviewed. After review by the Board, General Fund Warrant #1 of 2009, including vouchers #1 through #46, and totaling \$79,421.74; and Highway Fund Abstract #1 of 2009, including vouchers #1 through #13, and totaling \$25,116.36, were approved for payment on a motion by Uhteg, seconded by Phelps, and

carried, 5 ayes, 0 noes.

Under Privilege of the Floor:

Lynette Franz of Chaffee, owner of the Chaffee Water Company with her husband, thanked Councilman Phelps for her service on the Board and stated she is very sorry that Ms. Phelps received such a letter. She then disputed Supervisor Balus' earlier statement that she is always available. Ms. Franz stated that she has made several phone calls and left several messages and they were never returned. The Supervisor stated she has never received the messages. Ms. Franz stated that if the Supervisor is worried about the Water Company, she should contact them instead of them seeing it in the papers. She stated that anyone of the Board members can call them. Ms. Franz asked if anyone had checked to see why the well on Genesee Rd. went bad, and if it was proved that it was from the mining. The Supervisor stated that she does worry about the Chaffee people, and stated she would set up an appointment to talk with the Franz' if they would like to speak with her. Ms. Franz stated she would get together with Councilman Phelps about the Water Company. The Supervisor stated she will contact them if they will be discussed in the future.

Town Resident Kara Kane stated she would be interested in taking over the Community Cause, but not the coffee and cookies part. She stated she will have bins at each meeting for donations of food, children's clothing, baby formula, etc. She also stated she would like to submit her name for consideration of the Planning Board position. She was instructed to submit a resume to the Board. Councilman Hannon asked why they cannot seat her on the Planning Board now. The Supervisor stated she felt it was premature, since she does not know Kara or what she does. Councilman Hannon stated that she did not know Mr. Malachowski, nor had she seen his resume, yet a vote was taken on his appointment. A motion was made by Hannon, seconded by Montgomery, to appoint Kara Kane to the Planning Board. On roll call vote, Hannon, aye, Montgomery, aye, Phelps, abstained, Uhteg, abstained, Balus, abstained.

The Supervisor stated that Councilman Phelps has requested that Laura Marshall be promoted to Tiny Tots Supervisor, effective immediately, at the rate of \$9.00 per hour. The following resolution, to be known as Resolution #3 of 2009, was introduced by Phelps, seconded by Uhteg:

RESOLUTION #3 – 2009

RESOLVED, the Sardinia Town Board hereby appoints Laura Marshall to the position of Tiny Tots Recreation Supervisor, effective immediately, at the hourly rate of \$9.00.

Upon roll call vote, Hannon, aye, Montgomery, aye, Phelps, aye, Uhteg, aye, Balus, aye. So resolved, 5 ayes, 0 noes.

Supervisor Balus stated that Councilman Phelps has also requested that Courtnee Climenhaga be hired as Tiny Tots Rec Sub. The following resolution, to be known as Resolution #4 of 2009 was introduced by Uhteg, seconded by Phelps:

RESOLUTION #4 – 2009

RESOLVED, the Sardinia Town Board hereby appoints Courtnee Climenhaga to the position of Tiny Tots Recreation Sub, effective immediately, at the hourly rate of \$8.50.

Upon roll call vote, Hannon, abstained, Montgomery, abstained, Phelps, aye, Uhteg, aye, Balus, aye. So resolved, 3 ayes, 2 abstained, 0 noes.

Supervisor Balus stated she has received a letter from the Erie County Dept. of Environment and Planning requesting a letter of support from the Town of Sardinia so that they may apply for a grant for an Erie County Farmland Protection Plan. The following resolution, to be known as Resolution #5 of 2009 was introduced by Phelps, seconded by Uhteg:

RESOLUTION #5 – 2009

RESOLVED, the Sardinia Town Board hereby wishes to go on record as being in support of the application for a grant for an Erie County Farmland Protection Plan, by the Erie County Department of Environment and Planning.

Upon roll call vote, Hannon, aye, Montgomery, aye, Phelps, aye, Uhteg, aye, Balus, aye. So resolved, 5 ayes, 0 noes.

On a motion by Phelps, seconded by Uhteg, the Board then moved into

Executive Session

to discuss the Highway contract at 9:24 PM. Carried, 5 ayes, 0 noes.

The Board came back into Regular Session at 10:04 PM.

The Supervisor reminded that the next Regular Town Board meeting will held on February 11, 2009, at 7 :30 PM; the next Planning Board meetings will be held on January 21, 2009 and February 4, 2009, at 7:30 PM. She also reminded that the two informational meetings on the Firemen's Award Program will be held on Thursday, February 5th at 7:00 PM, and on Saturday, February 7th, at 10 AM, both at the Town Hall/Community Center.

There being no further business to come before the Board, on a motion by Phelps, seconded by Uhteg, the meeting was adjourned at 10:05 PM. Carried, 5 ayes, 0 noes.

Respectfully Submitted,

Town Clerk

