

## 5-13-2009 – REGULAR TOWN BOARD MEETING

### Present:

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

### Absent:

Councilman Norman J. Uhteg

### Also Present:

Attorney for the Town Anthony DiFilippo, III  
Town Clerk Betsy A. Marsh  
Approx. 35 guests

The Sardinia Town Board held its regularly scheduled Board meeting for May on May 13, 2009 at the Sardinia Town Hall/Community Center. Supervisor Balus called the meeting to order at 7:30 PM, with a Moment of Silence and the Pledge to the Flag.

The Town Clerk has submitted the minutes of the April 8, 2009 Regular Town Board Meeting, which were approved and filed on a motion by Phelps, seconded by Hannon, and carried, 4 ayes, 1 absent, 0 noes.

### The Supervisor's report included:

- The Community Cause Committee is looking for volunteers to head up this year's committee.
- The Filing of a balanced AUD on May 1<sup>st</sup>.
- The Review of the Asbestos and Lead Paint Inspection and Revised Air Samples and forwarding of same to Ted Lehman from the Dept. of Labor in response to a violation at the Sardinia Meeting House.
- Attending the Historical Society Open House and Program.
- Meeting with the Board and the Planning Board to review recommendations for amendments to the Town Zoning Ordinance.
- A meeting with Christopher Gerwitz from Concepts and Design at Veteran's Park to discuss the cost of specs and certified stamped prints to possibly renovate and update the pool house.
- Researching with Laura Landers, CPA and Tony DiFilippo, the issue of using the Reserve Fund to offset the Fire Tax and fund the LOSAP.
- Discussion with Judge Vossler concerning the continuation of Prosecutor Deborah Carr-Hoagland, as well as clarification of the scope of responsibilities for the position.
- Discussion with Ray Joseph at TVGA the Feasibility Study for the Parks; the Proposal will be introduced next month.

### Requests:

- Fire Chief John Kaminski has requested permission to use the outside of the Town Hall/Community Center for Fire Company ladder training. It was noted it had been done in the past, and permission was granted.
- The 2010 Census has requested that the Public be informed that the census will be taken between April and July, 2009, and that their workers will be going around to homes.
- From Blue Moon Portable Toilets, a quote of \$70.00 per month was received for porta-potties. Councilman Hannon will contact Zuech's for a second quote, and will order from the low bidder.

### Discussion:

- The Fire Tax and Length of Service Award (LOSAP) was discussed. Councilman Hannon asked if a bill had been received yet for the 2009 LOSAP payment, and asked for clarification as to where that money will come from. Supervisor Balus stated that no bill has been received yet, because the company is completing the paperwork. She stated that at budget time, a new item line will be added for the 2010 payment, and a resolution will be needed to transfer \$100,000.00 from the unreserved funds, and at that same time, funds would be applied to the Fire District tax line so that there will be no Fire District tax in 2010. Attorney DiFilippo explained that as he previously reported, the budget would need to be amended in the form of a resolution transferring the money from the unreserved funds account. Ms. Hannon stated that she does not want to see the Fire District tax raised, but she stated she had talked to two people at the State Comptroller's office and was told that the LOSAP payments will have to be paid from the Fire District tax line. The Supervisor repeated that it will not raise the tax amount if taken from the unreserved account, but stated that it was the Town, not the Fire Company that voted for the Service Award Program, therefore, it should come from the Genial Fund, not the Fire tax line. Councilman Montgomery stated he had also contacted the Comptroller's office, and was told it is a Fire District expense. He stated he had spoken to Jeff Mazula, and gave the phone number to Attorney DiFilippo to contact Mr. Mazula.
- Supervisor Balus stated that there are some Civil Service Issues and several new positions need to be created. Therefore, resolution #16 of 2009 was introduced by Balus, seconded by Phelps:

## RESOLUTION #16 – 2009

**RESOLVED**, the Sardinia Town Board hereby creates the following Civil Service Positions:

- 1 Recreation Supervisor PT (Seasonal) Non-competitive
- 1 Recreation Leader PT (Seasonal) Non-competitive
- 10 Recreation Attendant PT (Seasonal) Non-competitive
- 15 Lifeguards PT (Seasonal) Non-competitive.

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

- Supervisor Balus stated that, concerning the pool house, she would like to have plans and specs drawn up for possible renovations. She stated that there is a man named Christopher Gerwitz, who has done pool house renovations, and would be willing to draw up certified, stamped plans at a cost of \$750.00. Councilman Hannon stated she is not in favor of spending the money for renovations on a building that is only used for half the year. Councilman Phelps asked if Ms. Hannon had seen the pool house, and stated that the renovations are needed. She stated that she felt a vote should wait until the next meeting, stating there would not be the support for the project without Councilman Uhteg in attendance.
- The Supervisor stated she has the Springville Control Center Service, and needs to discuss with someone in the Fire Company what the changes are and if the Company is in support of the changes. She stated she will be working on it.

Councilman reports included:

Councilman Phelps reported that there have been no developments in the abandoned property case. Attorney DiFilippo stated that there is a procedure to be followed, and stated he would check into it and get back to the Highway Superintendent with the information. Also, she stated that the Tiny Tots Program leaders have requested that the playground in the back of the building be fenced off for safety purposes. It was suggested that City Fence be asked for a quote. It was also noted that the stump near the playground is now gone, and Deputy Highway Superintendents Don Hopkins was thanked for his efforts in getting that done. Councilman Phelps reported that the Tiny Tots graduation will be held on June 13<sup>th</sup> from 10:00 to 11:00 AM.

Councilman Uhteg was absent, but the Supervisor reported that the Concert in the Park series will begin on June 9<sup>th</sup> at 6:30 PM with the Pioneer School Jazz band. A donation to the group was suggested, and on a motion by Balus, seconded by Phelps, a donation to the Pioneer Central School Jazz Band in the amount of \$150.00 was authorized by the Board. Carried, Hannon, Montgomery, Phelps, and Balus voting aye, and Uhteg, absent. The Supervisor stated that Councilman Uhteg has received a quote in the amount of \$2,500.00 from Heineman's Plumbing and Heating for the redirection of the overhead pipes in the vault, and stated he will report on the matter at the next meeting.

Councilman Hannon reported that there is no date set yet for the Senior Flu clinic. She also reported that she and Councilman Montgomery conducted a walk-through at Manion Park. She stated that they spoke to some Chaffee residents who stated they are not looking for any major changes, and like the way it is now, and bleachers, team benches, and fencing in front of the benches would be desired. She stated she looked at the bathrooms, and they are not terrible, but could use two new sinks, and some new toilets. She stated there was a problem with the water yesterday, but that has been repaired. Ms. Hannon stated that the Buildings Caretaker, who is also doing the park maintenance work, does not have enough time to take care of all of it and suggested that the lifeguards be asked to clean the Genesee Rd. restrooms to free up the caretaker for more time at Manion Park. Councilman Hannon stated that Gernatt Asphalt Products has offered to put in a bike path at Manion Park, and would also be willing to bring the paved area up to the restroom entrance there, as well as paying for other improvements, such as bleachers. The Supervisor stated that the Board had voted several meetings ago not to take any money from Gernatt due to the ongoing litigation. Councilman Hannon suggested that, in that the lawsuit be dropped, and made a motion, seconded by Montgomery, to throw out the lawsuit against the Zoning Board of Appeals concerning the Gernatt Asphalt Products variance. Upon roll call vote, Hannon, aye, Montgomery, aye, Phelps, no, Uhteg, absent, Balus, no. Councilman Hannon then made a motion to accept a donation from Gernatt Asphalt Products for bleachers, stone, and other improvements at Manion Park. Upon roll call vote, Hannon, aye, Montgomery, aye, Phelps, no, Uhteg, absent, Balus, no. Councilman Hannon stated that chain link fence for the ball diamond at Manion Park would cost around \$1331.00. Supervisor Balus stated that bleachers and benches can be moved, but fence cannot, and suggested that the parks feasibility study may change the arrangement of the ball diamonds there. Councilman Phelps asked if the floor of the shelters at Manion Park can be paved, and Supervisor Balus stated that the Deputy Highway Superintendent stated they could be blacktopped. The Supervisor stated that the Town needs to do a Master Plan for the Parks to find out if it is getting the maximum benefit of its green space, and it would include Manion Park. Concerning the question of an elevator service agreement, Councilman Hannon stated she has contacted a company who would come in and for \$199.00, do an inspection, and let the Town know what maintenance needs to be done, and would then give a quote for the work. On a motion by Hannon, seconded by Phelps, Access Elevator of Jamestown will be asked to come in and do a walk through inspection of the elevator, and give a quote for any needed work. Carried, Hannon, Montgomery, Phelps, and Balus voting aye, and Uhteg absent.

Councilman Montgomery reported that he had reviewed the quotes for the drain upgrades at the pool. He stated he recommends that the Town go with the Beauty Pools quote of \$1,330.00 plus \$95.00 per hour for an estimated 4 hours of labor. On a motion by Montgomery, seconded by Phelps, the Beauty Pools quote was accepted, with Hannon, Montgomery, Phelps, and Balus voting aye, and Uhteg absent. Concerning a uniform house numbering sign ordinance, Supervisor Balus stated it didn't seem to be going anywhere. Attorney DiFilippo stated that he had spoken to Councilman Uhteg, who felt that there was no consensus in the community on such an ordinance, and Mr. DiFilippo stated he has not been asked to further change the draft legislation. Councilman Montgomery stated that the Town has a house numbering ordinance on the books now that is not being enforced, and maybe the best thing

would be to drop the proposal.

Councilman Hannon reported that the Food For All program, which helps people sign up electronically for food stamps, will again be here on Tuesday, May 19, from 6:30 PM until 8:30 PM. She also reported that she and Councilman Montgomery had visited the Highway Department, and one of the things they stated they would be interested in purchasing is a wood chipper. She stated that the cost for a brand new one is \$27,000.00. She stated they have rented one in the past, and could use it for the parks, and for ice damaged trees. The Supervisor stated she would be interested in knowing how much we have spent on the rental of such equipment, and Deputy Highway Superintendent Hopkins stated the cost to rent was \$3,000.00 per month. The matter was discussed, and on a motion by Hannon, seconded by Phelps, the Town will put out for bid for a new wood chipper, and reserve the right to reject any and all bids. Carried, Hannon, Montgomery, Phelps, and Balus voting aye, and Uhteg absent. Councilman Hannon stated she has also spoken to the representative of a company who has a buyback program, where the Town would purchase a new high lift, and every year, would get a new one for a minimal cost of a little over \$1,000.00. It was noted that the Highway Department currently has a mower on a buyback program. She stated she would look into the program. Ms. Hannon stated she would also like to discuss a Highway employee who currently does not receive health insurance benefits. Attorney DiFilippo stated it is a matter that could be discussed in Executive Session. The Supervisor asked if this would be to pay this person a stipend. Councilman Hannon stated it was. Supervisor Balus stated that they just signed a bargaining agreement with the Highway Employees, and felt that the contract was a fair agreement. Ms. Hannon suggested Board members consider it for a future meeting.

Councilman Hannon reported that the gas stove in the Senior Citizens' room did not work. The Clerk informed that it had now been repaired. Ms. Hannon stated that she had been contacted by Senior Citizen trip coordinator Dick Rogers, who is asking the Board for funding of a trip to Erie, PA. To see Rodgers and Hammersteins' "Some Enchanted Evening" on July 16, 2009. She stated that the Seniors will pay \$25.00 each, and the Town's portion will not exceed \$3,500.00. On a motion by Hannon, seconded by Phelps, the trip was approved, with Town funding not to exceed \$3,500.00. Carried, Hannon, Montgomery, Phelps, and Balus voting aye, Uhteg absent.

Councilman Hannon asked if the asbestos found in the Old Town Hall was going to be removed. The Supervisor stated that the report found the amounts to be minimal and below normal ranges, and that the public could be allowed in the building. Ms. Hannon stated she could not find results of air testing in the report. The Supervisor stated she had e-mailed the 45 page report, suggested that Councilman Hannon call the person who did the report, and stated that she did not see where the removal of the small amounts of asbestos was recommended. She asked Councilman Hannon and Montgomery to get agenda items to her before the meeting, as well as their committee reports.

Councilman Montgomery stated that last month he had brought up the possibility of the Town donating to the Rural Transit Van Program, and was told to find out what other towns donate. He stated that the Town of Holland gives \$7,500.00 through the CDBG program. Supervisor Balus stated that the Towns in the CDBG Consortium, including Sardinia, all apply for CDBG funding for Rural Transit. The Attorney stated that it is illegal for a municipality to donate money to groups, but it can be done by contract, and suggested that Holland may be doing this, also. Mr. Montgomery asked if the Town could apply for grant money for the Rural Transit program, and the Supervisor invited him to write a grant.

Attorney for the Town Anthony DiFilippo, III, gave the Board an update of legal matters effecting the Town. He stated that as to the litigation concerning the Waste Management co-generation plant, the Appeal will be perfected, not argued, but the documents submitted, by May 29<sup>th</sup>. He stated that concerning the Zoning case decision, which is scheduled for trial in September, the Town is in the process of preparing a Motion for Summary Judgement, which will be filed with the Court before May 27<sup>th</sup>. He stated that as to the Gernatt litigation against the ZBA, the record will be settled and the Appeal perfected in the near future. Mr. DiFilippo reported that he had also copied the Board on all correspondence, had received a phone call and responded to the DEC on behalf of the Town. He stated he did research on the LOSAP and fire tax matter, and had spoken to Laura Landers on that. The Supervisor asked when the Town could expect a decision on the Appeal of the ZBA matter, and the Attorney responded that it will be argued sometime in the fall, and the decision can come anywhere from 60 to 90 days after that.

The Town Clerk submitted her report for the month of April 2009 and the Code Enforcement Officer has also submitted his reported for April 2009. The Supervisor thanked the Highway Department for conducting the Spring Trash Pick up. She stated that she had never asked Highway Superintendent Baker why he had removed weight limit signs on Deerfield Dr. and Meyers Rd., and asked Deputy Highway Superintendent Don Hopkins if he would ask him, or if he himself knew. Mr. Hopkins stated that they had been put up by former Highway Superintendent Ed Andera in response to a truck on Meyers Rd. at that time. He stated that they found that the Town Board had never approved the erection of those signs, so they were taken down. Supervisor Balus allowed Paulette Green to speak, who stated that Mr. Baker had told her they were taken down after he had researched and found no indication that the Board had ever given approval for their erection. The Supervisor stated that she now has a better understanding and now knows what the process is that they have to go through.

The Planning Board minutes of March 4, 2009, March 18, 2009, April 1, 2009, and April 15, 2009 were received. All of the reports and minutes were received and filed on a motion by Phelps, seconded by Montgomery, and carried, Hannon, Montgomery, Phelps, and Balus voting aye, and Uhteg absent.

Payment of the bills was next on the agenda, and Councilman Hannon stated she had questions on some of those bills, including the \$206.00 Architectural Unlimited bill concerning the asbestos survey, and the Attorney's time to research the matter, stating she feels the State could have been contacted for free. Attorney DiFilippo stated he was responding to her e-mail, and went to the County law library concerning the State Code dealing with the matter. He stated he was given authority by the Supervisor to research further, and contacted TVGA, then Architectural Unlimited. He stated he did what he was asked to do. After discussion about the asbestos issue, the Architectural Unlimited bill was taken off the General Fund Warrant. Attorney DiFilippo stated that he did the work he submitted for, and will take action if he is not paid. He stated he resents it, and wishes Councilman Hannon had called him. Councilman Hannon stated she would be happy if 35 minutes, totaling \$60.00, was taken off the Attorney's bill. It was decided that the figures would be tallied, and

approval of the Warrant and Abstract would be done after Privilege of the Floor.

Under Privilege of the Floor:

William Barrier of Genesee Rd. and Jeanette Allen spoke out against Waste Management and Gernatt Asphalt being allowed to operate in the Town. He stated they threaten the water and the quality of living. He told the history of their well and spoke on the case against the ZBA. He stated that the CEO came to inspect the site, was a nice guy, but just kept saying it was the law. Mr. Barrier stated that the Chaffee Water Company was taking \$125,000.00 from Gernatt. The Supervisor stated that she sympathizes with them, the Board has lost the case but is appealing, and she and the Board are doing all they can do to help them.

Sheila Vrenna of Sardinia encouraged the Board to think about the bathhouse project, stating that it looks the same as it did 50 years ago. She stated they need to consider the project, the Kiwanis did the Town a huge favor when they started the Park and Pool, and would love to see it pursued.

Lynette Franz of Chaffee, co-owner of the Chaffee Water Works, stated that she wished to clear up the misconception that she and her husband are personally getting \$125,000.00 from Gernatt Asphalt. She stated they are taking the money for the Water Company to help everyone on the system with the \$850,000.00 renovation project. She stated the money will be accepted because the amount that all of the people have to pay is mind blowing. She stated that they are in contact with the DEC to protect the water supply from any mining, including the proposed Waste Management mine. She also stated she would like to see any and all reports the Barriers have on their well.

After review by the Board and after recalculation of the totals, General Fund Warrant #5, including vouchers #202 through #257, totaling \$208,789.67; and Highway Fund Abstract #5, including vouchers #65 through #80, totaling \$10,987.17, were approved for payment on a motion by Montgomery, seconded by Phelps, and carried, Hannon, Montgomery, Phelps, and Balus voting aye, and Uhteg absent.

Concerning the appointment of the Town Prosecutor, the Supervisor stated the Board had given her a 3-month trial period, and that time is now up. She stated that the Board had agreed to, at the end of that period, pay her \$350.00 per month. Supervisor Balus stated it has come to her attention that the Prosecutor, Deborah Carr-Hoagland, is also handling an extra trial, and feels she should receive an additional \$350.00 for that work. On a motion by Phelps, seconded by Balus, Deborah Carr-Hoagland was appointed through December 31, 2009, at a rate of \$350.00 per month, and with an extra fee of \$350.00 for the extra trial she is handling. Carried, Hannon, Montgomery, Phelps, and Balus voting aye, and Uhteg absent.

The Supervisor stated that Councilman Phelps has requested that Recreation Director Jim Helmicki be authorized to reserve a bus for the summer program to attend Letchworth State Park for an ecology day, at a cost not to exceed \$750. On a motion by Hannon, seconded by Montgomery to authorize the Recreation Director to reserve the bus, at a cost not to exceed \$750.00. Carried, Hannon, Montgomery, Phelps, and Balus voting aye, and Uhteg absent.

Supervisor Balus stated that Councilman Heather Phelps has requested that the Town Board hire the following guards and recreation staff with the rate of pay that was established at the organizational meeting, and has submitted a comprehensive list. On a motion by Phelps, seconded by Montgomery, the following were hired as summer staff for the pool and recreation program for summer 2009, as recommended by Councilman Phelps:

Pool Staff:

Sara Watkins	Pool Director
Laura Reisdorf	WSI (returning)
Jessie Nickerson	WSI (returning)
Casie Neill	WSI (returning)
Jamie Levy	lifeguard (returning)
Aimee Lindner	lifeguard (returning)
Cortney Hilts	lifeguard (returning)
Drioux Danielson	lifeguard (returning)
Meg DeMario	lifeguard (returning)
Lucianna Garlock	lifeguard (returning)
Jenna Boza	lifeguard (returning)
Michael Anna	lifeguard (returning)
Layna Mattson	lifeguard (first year)
Kristin Buttino	lifeguard (first year)
Rebecca Chilson	lifeguard (first year)
Deron Hilts	lifeguard (first year)

Recreation Staff:

Christine Hulton	(returning)
Mike Anna	(returning)
Anthony Lock	(returning)
Frankie Queeno	(first year)
Ashley Lock	(first year)

Carried, Hannon, Montgomery, Phelps, and Balus voting aye, and Uhteg absent.

The Supervisor stated that Parks/Grounds Keeper help is needed at Veteran's and Manion Parks. She stated that last year we had Dennis Dick, who worked out great, and Doug Domster helped him, and stated she would like to hire Mr. Domster again for 19 ½ hours per week at the rate established at the Organizational meeting. Councilman

Hannon stated she would like to see the job given to someone who is out of work, rather than someone who is retired. On a motion by Phelps, seconded by Balus, Doug Domster was proposed for hiring as Parks/Grounds keeper at the Parks. Upon roll call vote, Hannon, no, Montgomery, no, Phelps, aye, Uhteg absent, Balus, aye.

Supervisor Balus asked for a motion to spend \$750.00 for an agreement for Specs and an Updated Layout for handicapped accessibility at the Pool Bathhouse. Councilman Phelps stated she supports the project, but felt that it would be defeated and asked that it be tabled.

The Board discussed whether or not to go into Executive Session the personnel issue. Councilman Hannon asked if she could e-mail the proposal to other Board members, with specifics and the Attorney advised that she could, and suggested that the name of the person not be included in the e-mail.

Next meetings included:

The next Regular Town Board Meeting scheduled for June 10<sup>th</sup> at 7:30 PM  
Planning Board meetings scheduled for May 20<sup>th</sup> at 7:30 PM and June 3<sup>rd</sup> at 7:30 PM

Other Information included:

Wellness Fair, May 16<sup>th</sup>  
Memorial Day Service, May 25<sup>th</sup> at the Sardinia Cemetery, 8:00 AM, with the "4<sup>th</sup> Annual Volunteer's Appreciation Breakfast" for all Veterans and Firemen and their families immediately following.

Councilman Montgomery asked the Supervisor if she was going to address a petition that was submitted before the meeting against the sidewalk. The Supervisor stated the decision had been made, and there was nothing to be done. The people who submitted the petition expressed their displeasure.

Mike Hannon suggested that Chris Gerwitz be asked to draw up a conceptual plan for the bath house, and then, if the Board likes it, they can then pay him \$750.00 to draw up specs.

There being no further business to come before the Board, on a motion by Phelps, seconded by Montgomery, the meeting was adjourned at 9:37 PM.

Respectfully Submitted,

Town Clerk