

6-10-2009 – REGULAR TOWN 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. 45 guests

The Sardinia Town Board held its regularly scheduled Board meeting for June on June 10, 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 May 6, 2009 joint meeting between the Town Board and Planning Board, the May 13, 2009 Regular Town Board meeting, and the May 18, 2009 Special Emergency Town Board meeting. On a motion by Uhteg, seconded by Phelps, and carried, 5 ayes, 0 noes, those minutes were approved.

The Supervisor's report included:

- A thank you to the volunteers who put on the breakfast for the Veterans and Firemen and their families on Memorial Day. The Supervisor stated there were about 200 who came for the meal.
- A meeting with auditors from Freed, Maxick & Battaglia in preparation for the Audit.
- Received information and applications from the Buffalo and Erie Co. Workforce Development recruiting Youths for summer employment. Applications will be in the Clerk's Office.
- Received Death Benefit Contracts for all eligible participants in the LOSAP contracts, which are on file in Supervisors Office
- A meeting with Damian Ulatowski and Don Brooks to review the LOSAP contract and discuss payment of the invoice.
- Discussed with Russ Stoll at TVGA the Task Orders for the Master plan for the Parks and the Best Plaza expansion plans and drainage issues.

Requests have been received as follows:

- From Yorkshire Supervisor Marcia Spencer regarding Village of Delevan Summer Recreation program to use our town's pool for their swim program this summer. The matter was discussed, with Councilman Phelps stating that she doesn't feel our pool has the room to accommodate their summer program, and would not like to tell our lifeguards that they cannot work during that time in favor of their lifeguards. Councilman Uhteg stated they would be welcome to come and join our swim lessons program. Councilman Phelps will contact Yorkshire Councilman Connie Walker and see if something else could be worked out.
- From Sardinia Home Bureau to use the Community Center for its meetings on the 1st & 3rd Thursdays of the month. None of the Town Board members had a problem with this.
- From Tri Town Trojan Youth Football for use of the Community Center on July 18th from 9 AM until 1 PM for football and cheerleading sign-ups. None of the Board members had a problem with this.
- A letter was received from the Chaffee-Sardinia Youth Baseball League, who asked permission to make some improvements to the Manion Park ball diamond, using donated materials and with the parents doing the work. They would also like permission to do fundraising for items like bleachers, and fencing between the players' benches and the diamond. It was discussed, and no one had a problem with the diamond improvements, however, the Supervisor stated that she would like to see a Master Plan for the Parks completed before any permanent changes, such as fencing, were done.

Items for discussion included:

- Fire Tax and Length of Service Award (LOSAP): there was no discussion.
- Architectural Plans and Specs for Pool Bathhouse Renovations: The Supervisor stated that Councilman Montgomery had stated that a Town resident contractor would do specs and plans for free, and the contractor has now stated he never said he would do it for free. She stated that the man who was going to do it for \$750.00 has asked that he no longer be considered for the project. Councilman Uhteg stated he would contact Aurora Architecture to see if they could do it, and come back to the July meeting with another plan.
- Springville Control Center Service Agreement: The Supervisor stated she had not gotten to that issue, but will contact Jim Wiedemann to find out what the changes are from the old agreement. She stated she would get copies of the new contract to everyone.

Councilman reports included:

Councilman Phelps reported on the abandoned vehicle left on their property. Attorney DiFilippo has researched and sent the information on to Highway Superintendent Baker. Mr. Baker stated he is awaiting word from the police agency and the registered owner, who is supposed to be in the Syracuse area. Mr. Baker stated he is hesitant to do anything with the vehicle, for fear that a finance company will come forward wanting it back. He stated it is fine where it is. Attorney DiFilippo stated there are decisions to be made by the Town as to how to dispose of the vehicle. He stated that as long as the Town has contacted a police agency, it is safe. Mr. Baker stated that any money received from the sale or disposal of the vehicle must be kept in an escrow account for 1 year. He felt that the Town may be better off to ultimately sell it for scrap. Councilman Phelps reported that, concerning the fence around the playground in the back of the

Community Center, she will be meeting with John Huston from City Fence on Friday. Also, she stated that there is a list of activities for the summer recreation program at the back table, and stated it included two field trips, one to the Arcade & Attica Railroad, and one to the Lockport Underground Caves and Boat Trip; signups for the summer programs will be held on June 20th and June 27th at the pool. Councilman Phelps informed that the last day for the Tiny Tots program is tomorrow, June 11th, and their graduation program will be held on Saturday, June 13th.

Councilman Uhteg announced that the next concert in the gazebo at the Park will be held on June 23rd and will feature Gene Hilts and the Rustic Ramblers. He stated that he was not at the last Board meeting due to an emergency, but had intended to ask for authorization to pay the Pioneer Jazz Band \$300.00. The Board had authorized only \$150.00. He also stated that he would like to have \$300.00 authorized for the Rustic Ramblers. Therefore, on a motion by Uhteg, seconded by Phelps, an additional \$150.00 was authorized to pay the Pioneer Central Jazz Band, and \$300.00 was authorized to pay Gene Hilts and the Rustic Ramblers. Carried, 5 ayes, 0 noes. Mr. Uhteg stated he has received a proposal from Heineman Plumbing for the redirection of the pipes currently running overhead in the vault. He stated that the cost will be between \$2,500.00 and \$3,000.00, because they will have to go through 5 inches of brick, and they would be a completely new kind of exhaust pipe. Councilman Hannon stated she had also received a couple of proposals, and the Supervisor asked Councilman Uhteg to look those over, make sure we are comparing apples to apples, and come back with a recommendation at the next meeting.

Councilman Hannon stated she checked into elevator maintenance plans, and gotten a price of \$130.00 per month from DCB Elevator. She stated that staying with the ThyssenKrupp, "Bronze" plan would cost \$118.00 per month, and the "Gold" plan, which would include the annual cleaning, would cost \$356.00 per quarter. Therefore, on a motion by Hannon, seconded by Phelps, the Board decided to stay with ThyssenKrupp Elevator, and enter into agreement for their "Gold" plan for elevator maintenance. Carried, 5 ayes, 0 noes. Ms. Hannon stated she has a tentative date of Friday October 30th from 9 AM until 1 PM for the Senior Flu Clinic. She stated she is in the process of contacting organizations to participate, and has made arrangements with Waste Management for a luncheon. Councilman Hannon brought up a suggestion to install a time clock for Town employees. The Supervisor asked about the cost, and asked if it would really be needed. Councilman Hannon stated she would go further and get a cost estimate, if the Board would like. Attorney DiFilippo stated that the Highway Dept. could not be bound by a time clock unless it is in their Employees Agreement. Upon discussion, the Board agreed to not go further with the suggestion. Councilman Hannon stated she has had many calls about the condition of some County roads, and stated she has contacted Highway Engineer Phil Drozd, who indicated to her that Genesee Rd. is scheduled to be milled down and repaved from Rt. 219 east to Rt. 16 later this summer; Savage Rd. has been scheduled for work during the third week in June, and Matteson Corners Rd. will be paved sometime this summer. The Highway Superintendent stated he has heard that the County is already out of money for road work, and there will be no repairs. Ms. Hannon stated that, concerning the SPCA contract correspondence received, she has contacted Dog Control Officer Duane DeGolier, and Mr. Butler from the SPCA, and found out that the letter was due to the closing of the Angola SPCA shelter. Councilman Hannon stated that the person from Food For All, helping people sign up for food stamps electronically, will be at the Town Hall/Community Center again on Tuesday, June 16th. Councilman Hannon also stated that she has looked into the possibility of scheduling a Defensive Driving Course, wherein people can get up to 10% off their car insurance rate by completing the course. She stated she has tentatively scheduled the 6 hour course for September 29th and October 1st from 6 PM until 9 PM each night. She stated the cost is \$25.00 per person, and the minimum number of people for the course is 20, with a maximum of 40. On a motion by Phelps, seconded by Hannon, the scheduling of a Defensive Driving Course at the Town Hall/Community Center was authorized. Carried, 5 ayes, 0 noes. Ms. Hannon stated she has been approached by the Tiny Tots program with a request for the purchase of a TV/VCR combination. She will look into prices. Councilman Hannon stated she has also been approached about the possibility of getting a paper recycling bin for newspapers, catalogs, etc., where the charity of the Town's choice would get the money from the tonnage, and suggested that the money could go to Mercy Flight. The Board gave her permission to look into getting one.

Councilman Hannon also asked about the Zoning Amendments proposed by the Planning Board, asking if a Public hearing should be scheduled. Attorney DiFilippo stated that they could, if they are ready to consider adoption. He then outlined the amendment procedure, including SEQR and the necessary notifications that must be made. Councilman Uhteg stated that there may be other people who may have changes they would like considered. Attorney DiFilippo stated that the Town Board can consider amendments at any time, and can send them to the Planning Board for review. The Supervisor stated she did not feel there were many amendments proposed by the Planning Board, and felt that it is a good start but that there may be more items that need review. Planning Board Chairman Dan Miller stated that the Board could advertise for suggestions and have them sent to the Planning Board for consideration. Supervisor Balus stated that the Planning Board should reach out to the ZBA for any problematic decisions. Board members and others were invited to make suggestions as to changes to the Zoning Ordinance. The Supervisor stated the Town should get all of the amendments together and then review again at the next meeting. Mr. Miller suggested that these proposed amendments get taken care of now because one of the items is the extending of the Planning Board's 31 day period to a 62 day period. Mr. Miller will send the list of amendments to Attorney DiFilippo so that he can draft legislation.

The Supervisor suggested that, concerning the matter of a new house numbering Local Law which Councilman Montgomery has been reporting on, a decision be made as to whether to take it off the agenda, or continue with a proposed law. Councilman Uhteg stated he would like to see the current ordinance enforced, stating that the Fire Company has had several calls where they could not locate the residence due to no house number being posted. The Supervisor suggested that the matter be approached from another angle, by advertising that there is an ordinance and offering to help them if they cannot afford, or unable to post a number. Councilman Montgomery stated he would come up with an ad and put it in the Pennysavers. It was decided that September 1st would be the deadline for enforcement.

Councilman Phelps stated that when she had met with Gregory Hopkins about the pool house renovations, he stated he had been unaware that the shelter roofs had gone out to bid. She stated she would like to see a Town bidders list be started, and when a project is put out to bid, those on the bid list would automatically be sent a copy of the bid ad and a set of specs.

Mr. Montgomery stated that a company will be bringing out and demonstrating a new chipper at the Highway Garage, and he will find out exactly when so that anyone interested in seeing it could attend.

Councilman Uhteg stated that a couple of other Towns in Erie County have passed resolutions against a proposed County Regional Planning Board, and suggested that Sardinia do so, also. The Town Clerk will get a copy from one of those Clerks and prepare it for adoption.

Attorney for the Town Anthony DiFilippo, III gave the Town Board an update of legal matters affecting the Town. He stated that, as to the Concerned Citizens of Sardinia lawsuit challenging the Zoning Ordinance, it is scheduled for trial in September. The Town has filed a Motion for Summary Judgment, which is scheduled for argument on July 30th. Concerning the Waste Management Co-Generation Plant Appeal, the Court had given the Town until May 29th to file the Record on Appeal, and the case is scheduled to be heard in the Appellate Division in Rochester during the term commencing October 19th. On the Gernatt Notice of Claim filed against individuals on the Board and against the Town, Mr. DiFilippo stated the case will be handled by the Town's liability insurance company. He stated that Section 50-H depositions were taken a couple of days ago, and in addition, the lawsuit that had been filed by Gernatt on that issue has been withdrawn and discontinued due to technical reasons, but the insurance company attorney has advised him that she feels it will be re-filed. In the litigation involving the ZBA, Mr. DiFilippo stated there has been the settlement of the record, and it is currently being printed, and arguments on that will be in the fall. He stated he handled routine matters including the abandoned property matter, the TVGA agreement, and the LOSAP matter.

The Town Clerk's monthly report for the month of May 2009 was submitted, as was the Code Enforcement Officer's report for May 2009.

Highway Superintendent Walter Baker gave a report of Highway Department activities for the month. He stated that the patching was 75% done, with only a couple of roads left to do. Mr. Baker stated that he and his crew had filled some of the worse potholes on Savage Rd., a County road, and the County will reimburse the Town for the work. He stated he has heard that the County is already out of funds, and that Genesee Rd. will not get done this year. The Highway Superintendent stated that his department would be doing ditching work, and they are currently mowing two days a week. Mr. Baker stated that the pool has been pumped out, and the drain modifications are scheduled to be done at 7:00 AM on Thursday. He stated he is glad to see so many of the lifeguards returning. Mr. Baker stated that the water tests results have come back negative. The Highway Superintendent stated he needed an okay from the Board to get bromine for the pool and asked if the Board wanted him to get prices and go for the least expensive, as he has done in the past. Board members agreed he should do that. Mr. Baker stated he has the pool permit, and asked when the Board would like the pool opened for the season, and it was decided to open on June 27th. Mr. Baker reported that the new Highway truck is now in Watertown, NY for the installation of the dump and plow equipment, and will be completed and ready for pick up on or about July 10th.

The Planning Board has submitted the minutes of its May 6th and May 20th 2009 meetings. All reports and minutes were received and filed on a motion by Phelps, seconded by Montgomery, and carried, 5 ayes, 0 noes.

After review by the Board, General Fund Warrant #6 of 2009, including vouchers #258 through #310, and totaling \$21,431.68; and Highway Fund Abstract #6 of 2009, including vouchers #81 through #97, and totaling \$104,529.12, were approved for payment on a motion by Phelps, seconded by Uhteg, and carried, 5 ayes, 0 noes.

The Supervisor stated that a transfer of funds is needed to cover the cost of the new truck, and on a motion by Phelps, seconded by Montgomery, \$95,662.00 was authorized for transfer from the unappropriated fund balance to Highway account #DA5130.2. Carried, 5 ayes, 0 noes.

There were no requests to speak under Privilege of the Floor.

Supervisor Balus stated that she has been in receipt of approximately 44 life insurance policies from Damien Ulatowski and Don Brooks as part of the Firemen's LOSAP agreement, as well as the contact for the administration of the program.

She stated that Attorney DiFilippo has reviewed the contract. Mr. DiFilippo stated he finds the contract to be in order, stating that technically, the Town is the administrator of the program, and this is the company that the Town hired to administer for them. He stated that the contract is for calendar year 2009, and there is a 30 day cancellation clause. He also pointed out that Councilman Uhteg and Councilman Phelps need to sign disclosure statements for the record because Councilman Uhteg is a fireman, and Councilman Phelps' husband is a fireman. They did so. Councilman Hannon stated she has asked to see copies of the contract but it has not been provided to her. The Supervisor explained that this is in the amount of \$2,700.00, and is only for the administration piece of the program. Therefore, the following resolution, to be known as Resolution #17 of 2009, was introduced by Phelps, seconded by Uhteg:

RESOLUTION #17 – 2009

BE IT RESOLVED, the Sardinia Town Board hereby authorizes Supervisor Kathleen M. Balus to sign the administration contract with Firefighters Benefit and Insurance Services to handle the Chaffee-Sardinia Fire Company's Service Award Program.

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

Supervisor Balus stated that the Firemen's Service Award program payment invoice has also been received and needs approval for payment. Councilman Montgomery stated he has asked to see the contracts and has been refused. There was discussion as to whether it was a public record or not, with the Supervisor stating that there are Social Security numbers and other private information on the contracts, and reminding the Board that this has already been approved by the voters, by referendum. On a motion by Phelps, seconded by Uhteg, the Board approved payment in the amount of \$82,029.45 to Nationwide Life Insurance Co. for the life insurance portion of the LOSAP program; payment in the amount of \$15,492.94 to Columbian Mutual Life for the death benefits portion of the program; and payment in the amount of

\$2,749.16 to Affordable Benefits Concepts for the administration portion of the program, for a total of \$100,271.55, with all 3 checks to be sent to Affordable Benefits Concepts for distribution. Upon roll call vote, Hannon, abstained, Montgomery, abstained, Phelps, aye, Uhteg, aye, Balus, aye. Carried, 3 ayes, 2 abstentions.

The Supervisor stated that a motion is also needed in order to move funds from the unappropriated fund balance into the proper appropriation account to pay those previous invoices. On a motion by Phelps, seconded by Uhteg, the Board authorized the transfer of funds in the amount of \$100,271.55 from the unappropriated fund balance to the proper appropriation account. Upon roll call vote, Hannon, abstained, Montgomery, abstained, Phelps, aye, Uhteg, aye, Balus, aye. Councilman Montgomery stated he felt it was a conflict of interest for Councilmen Phelps and Uhteg to vote on these LOSAP items. The Attorney for the Town stated that the Councilmen had submitted disclosure statements, and in his opinion, their votes were therefore legal. Councilman Hannon asked about the research into the way the fire program and fire tax will be budgeted. Mr. DiFilippo stated that he had called Jeff Mazula of the State Comptroller's office, as discussed at the last meeting, and had read him Laura Lander's letter, and Mr. Mazula agreed that everything was in order and the Town could use the unreserved fund balance, but that he would refer the matter to Mitch Morris to confirm. Attorney DiFilippo stated that Mr. Morris did not get back to him, but that he talked to a Mark Stevens from Mr. Morris's office, who indicated that someone would be in touch with him before this meeting, but they did not. He stated that he feels there is no question, that it is an unrestricted fund balance and that as long as the proper accounting is done, and because the Town is covered by only the Chaffee-Sardinia Fire Co., there need not be any fire tax on the tax bill. He requested that Councilman Hannon e-mail her letter to Mitch Morris to him. Ms. Hannon stated she is just trying to protect the taxpayers and would like to have all the fire tax covered. The Supervisor stated that all five Board members are in agreement with that.

Supervisor Balus stated that, concerning TVGA Consultants Task Order #8, for drafting of a Master Plan for usage of the Parks and green space, the plan could be used in the future, and would be great if used. She stated that the cost would be \$29,400.00, plus \$2,000.00 for expenses. She opened the floor for discussion by the Board. Mr. Montgomery felt the cost was a little steep and felt that it should be put out to bid. The Supervisor suggested that he contact other companies. Mr. Uhteg did not feel it would be fair to TVGA to show other companies TVGA's proposal. Mr. Montgomery stated that perhaps Mr. Uhteg should handle it then. After discussion, it was decided to look for other companies, and perhaps grant money.

The Supervisor stated that TVGA Task Order #9 would be for a technical review of the Sara Best Plaza expansion. She stated this matter has become difficult. She stated that TVGA would review the 2 issues involved if the Planning Board so chooses. She explained the problems involved, and the Attorney stated he has also looked into it. After discussion of the problems, Planning Board Chairman Dan Miller stated the Planning Board has now received the plans and have reviewed with the Professional Planner, and feels that the TVGA report would be redundant. The Task Order will be set aside and can be used, if the Planning Board chooses.

Supervisor Balus stated that the Town needs to contract with the Fire Company in the amount of \$4,200.00 for fireworks at the Carnival. The following resolution, to be known as Resolution #18 of 2009, was introduced by Phelps, seconded by Uhteg:

RESOLUTION #18 - 2009

RESOLVED, the Sardinia Town Board hereby authorizes the Supervisor to pay the Memorial Volunteer Fire Company of Chaffee-Sardinia, Inc. \$4,200.00 for fireworks during its 2009 annual carnival.

Upon roll call vote, Hannon, no, Montgomery, abstained, Phelps, aye, Uhteg, aye, Balus, aye. So resolved, 3 ayes, 1 no, 1 abstention.

Questions included:

Mike Hannon asked if these firemen on the LOSAP contract are for the same 44 firemen as were listed before the referendum. The Supervisor stated that they are all Fire Company members. She stated she would share the roster of names, but would not share any confidential information. Councilman Uhteg stated that Damien Ulatowski had explained that the number of covered firemen can fluctuate from year to year. The Board discussed sharing of information.

Bill Connors stated that, as far as the house numbering issue, if your house is on fire during the day, he will see the smoke. If it's at night, they will be in trouble if they do not have a number. He stated there are other towns with numbers that are uniform, and it is much better than here in Sardinia.

Councilman Montgomery stated he never asked for personal information from the LOSAP contracts, only a roster of Fire Company members on the contract.

Supervisor Balus then announced that she would not be seeking re-election. She stated she had vowed she would complete her 4 year term, and vowed to leave the Town in better shape than she found it, and without a doubt, from the bottom of her heart, she knows she has. She stated it has been an honor and a privilege to serve the residents of Sardinia, and wishes this Town the very, very best. She thanked the residents again for all of the support.

There being no further business to come before the Board, on a motion by Phelps, seconded by Uhteg, the meeting was adjourned at 9:33 PM. Carried, 5 ayes, 0 noes.

Respectfully Submitted,

Town Clerk