

8-12-2009 – REGULAR TOWN BOARD MEETING

Present:

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

Absent:

Councilman David L. Montgomery

Also Present:

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

The Sardinia Town Board held its regularly scheduled Board meeting for August on August 12, 2009 at the Sardinia Town Hall/Community Center. Supervisor Balus called the meeting to order at 7:30 PM, with a Moment of Silence, asking that everyone keep in mind our Troops, and the family of Paul Tavernier, who passed away this past month. She then led the Pledge to the Flag.

The Town Clerk has submitted the minutes of the July 8, 2009 regular Town Board meeting, the minutes of the July 28, 2009 Public Hearing on Waste management's application for a Special Use Permit for a Borrow Area, and the minutes of the Special Meeting, also held on July 28, 2009. A motion was made by Phelps, and seconded by Hannon to approve those minutes. Supervisor Balus stated that she would like to make something clear, and stated that at the last meeting, Councilman Hannon had asked that a notation be added to the minutes, noting that she abstained on the payment of the LOSAP vouchers because she did not have any of the information before the vote. The Clerk had made the notation in the minutes, and the minutes, with the notation, had been approved. The Supervisor wanted it made clear that she felt the actual contracts were confidential and could not be given to Councilman Hannon and the administration contracts, and stated she felt the minutes would be misleading, stating that the reason that both Councilmen Hannon and Montgomery abstained was that they were adamantly opposed to the LOSAP Program. The vote was then taken to approve the 7/8/2009 Regular meeting minutes, the 7/28/2009 Public hearing minutes, and the 7/28/2009 Special meeting minutes, and the motion was carried, 4 ayes, 1 absent.

The Supervisor's report included:

- The Supervisor stated that she was positive that one would be ready for this meeting, but that there is still no report on the Annual Audit with Freed, Maxick & Battaglia, and she stated she absolutely believes that the report will be available at the next meeting.
- Supervisor Balus stated that the budget process will begin in the next couple of weeks, with departmental request forms to be handed out. She noted that she needs to have the Budget to the Town Clerk by the end of September. Councilman Hannon asked what part the Councilmen have in the process, and the Supervisor explained that estimates for next year's expenditures for each Budget category that each Councilman is in charge of need to be submitted. She went on to explain the rest of the process and how the Board works together to formulate a Budget for the following year.
- The Supervisor stated she had discussions with TVGA, the Dept. of Environment and Planning, and the Chaffee Water Company regarding the water system renovations and the sidewalk project. She stated that the water project is of the utmost importance and does not want to put in the sidewalks before the water lines, but does want the sidewalk project to get done. The Supervisor stated she had called Rod Franz to ask when he thought the process would begin, and found out that Peter Sorgi is the Water Company's attorney, as well as the attorney for Gernatt Asphalt Products. She stated that Mr. Sorgi has sent a letter stating that the Water Company anticipates opening bids on August 24th for the water system renovation project, and will start construction shortly after. She stated she has spoken to the CBGA grant people, and they do not believe that this would be held against the Town in the future.
- She stated she reviewed the Park Master Plan Proposals and met with town resident Bill Arlow and Peter Tarnaskyj regarding their qualifications and proposal.

The Supervisor stated that a request had been received from Donna Schiener of the Arcade Area Community Theater for use of the gym and stage for auditions and practice during the second week in September. Ms. Schiener stated that she would work around the previously scheduled events for that week, and Board members agreed to allow the use of the gym for that purpose.

Discussion items included:

- A special thank you and general recognition for all the good neighbors who are mowing lawns of foreclosed or vacant properties in the Town of Sardinia.
- The Supervisor would like to make a Presentation of a Proclamation to James R. Shaw for 70 years of service in Chaffee at the next Board Meeting, and Board members were all in agreement.
- She noted that the elected officials got an early paycheck by mistake, instead of during the last week of the month, and she thanked Councilman Hannon for bringing it to the bookkeepers attention.
- The Supervisor stated that she and Councilman Uhteg have been talking with Waste management about making the Host Municipality Agreement a better one. She stated that one of the ways they would like to do that would be to hold scheduled quarterly meetings at 7 PM before the Board meetings to answer questions and report on various items of interest to the residents, including gas reports and any regulatory information. Board members were in agreement.

- Concerning the Springville Control Center Agreement, the Supervisor stated that she is still waiting for documents.

Councilman Phelps reported that the end of the year Recreation picnic will be held this Friday, August 14th, and there will be a Hawaiian theme. She stated that 80 people attended the Lockport Caves field trip; 65 people attended the Arcade and Attica Railroad trip; and 30 people traveled on the bus to the Letchworth Park field trip. Councilman Phelps stated that the Arts & Crafts staff is asking for shelving in the storage room on the back of Shelter #2 at the Park, and the matter was discussed, with the Highway Superintendent suggesting they use the room off the end of the pool. The old restroom building was also discussed as a possible area for storage. The closing date for the pool was discussed. Ms. Phelps stated she had spoken to Rec Director Jim Helmicki, who had anticipated August 30th as the last day for the pool, however the Labor Day in the Park committee has requested it be open for that day since one of the scheduled events is synchronized swimmers from Tonawanda. Certified Pool Operator Walt Baker stated that he felt it was a waste of bromine to keep it open for a week, and there may be no lifeguards available due to college and school. It was decided to keep the pool at a minimum bromine level until Labor Day. Councilman Phelps stated a mother had called her about tiles falling off the pool, and she asked if it was something that the Town should plan on putting out to bid. Mr. Baker stated they can replace the tiles when the pool is drained for the winter, but the bigger project will be winterizing with the new grates and skimmers needing to be taken off. Ms. Phelps stated that at the start of the summer season, she had inadvertently neglected to recommend a higher pay rate for returning Recreation Attendants, as has been done in the past, and is also done for returning lifeguards. She asked the Board to approve retroactive pay increases for 3 Recreation Attendants. The following resolution, to be known as Resolution #19 of 2009, was then introduced by Phelps, seconded by Uhteg:

RESOLUTION #19 – 2009

BE IT RESOLVED, the Sardinia Town Board hereby approves an hourly pay increase from \$8.50 to \$9.00 per hour for returning Recreation Attendants Christine Hulton, Michael Anna, and Anthony Lock, and to pay the increase retroactive to the beginning of the 2009 Summer Recreation Season.

Upon roll call vote, Hannon, aye, Montgomery, absent, Phelps, aye, Uhteg, aye, Balus, aye. So Resolved, 4 ayes, 1 absent, 0 noes.

The Supervisor stated it had been a well run, successful program, and Councilman Phelps informed that the pool would be closing early, at 5 PM, on August 18th and she would be taking the staff to the Milestone for chicken wings and pizza and soft drinks, with no alcohol to be served.

Councilman Uhteg reported that the Historical Society is moving along and there is nothing new on the redirecting of the pipes to avoid condensation and moisture in the Records Retention area. He stated that the architect is coming out on Tuesday to do some more drawings and make some more suggestions on the pool bathhouse renovations. Mr. Uhteg stated that plans for Labor Day in the Park are coming along well and there are some requests for execution of contracts and approval for pre-payment by the committee. They included the following:

Billy D.	\$150.00
Tiger Tom Walsh	\$360.00
Rosie Spencer	\$100.00
Synchronized Swimmers	\$200.00 donation

On a motion by Phelps, seconded by Uhteg, the Supervisor was authorized to sign contracts with the above, as well as any others that are hired and authorization for pre-payment of the contacted amounts was approved. Carried, 4 ayes, 1 absent, 0 noes.

The Town Clerk stated that the gardens in the Park need work every year, and stated that she had spoken to Park caretaker Mark Stevens about it. His wife Sherrie Stevens, who is a great gardener, has suggested that, with permission of the Board, she could work on the Park gardens, and plant cuttings from her own gardens, and perhaps coordinate other gardeners to do the same. The Board gave her permission to do any planting or work she sees fit.

Councilman Hannon stated that the Food For All Program, helping people apply for food stamps on line, will continue the program here, and she has a list of dates for the Fall. She stated she has run ads for the Defensive Driving Course that will be held in this building on Tuesday September 29th and Thursday October 1st. Councilman Hannon stated that the Paper Retriever recycling bin is now in place between the Post Office and the Town Hall/Community Center, and reminded that the proceeds will benefit Mercy Flight. She also reported that the Senior Flu Clinic is scheduled for October 30, 2009. Ms. Hannon stated she had found prices for the TV and DVD/VCR that has been requested by the Rec Dept. for use at the Town Hall/Community Center. She stated that a 32" HDTV would cost \$378.00; another 32" HDTV was \$447.00, and a Visio 37" HDTV was \$597.00, and the DVD/VCR combination was \$69.88. The matter was discussed, and on a motion by Phelps, seconded by Hannon, it was agreed that the Town should purchase the 37" Visio TV at a cost of \$597.00, and the Magnavox DVD/VCR combination at the cost of \$69.88. Carried, 4 ayes, 1 absent, 0 noes. Councilman Hannon stated that the Town does not have an Employee Handbook, and feels it would be beneficial thing to have. Supervisor Balus agreed, stating that it was something she has worked on and wanted to have finished in her term. She stated that it is very complicated but important. Councilman Hannon stated she would be willing to work on it. Councilman Phelps stated that former Councilman Mumbach had started such a project, and she would put a copy of what he had done in Ms. Hannon's mailbox. Supervisor Balus stated she would see if she had any materials, and will get them to Councilman Hannon. Ms. Hannon stated that she has noticed that Erie County's free rabies clinics are listed on the bulletin board, but that none are close, and stated she would be willing to look into that. She stated that if the County will not bring one here, perhaps the Town can hold one of its own, as in the past. Concerning the hydrologist hired at the last meeting, she stated that more information had been requested by them and was sent out this morning.

Councilman Hannon stated that Councilman Montgomery is absent due to a death in the family, but asked her to bring up that the fence between Manion Park and Chaffee's water reservoir is down in several places, and he feels it

is a huge safety issue. The Highway Superintendent stated that his department could look at it, and Supervisor Balus suggested that the Town have Springville Fence look at it and give a price. Ms. Hannon stated that Mr. Montgomery asked her to bring up house numbers and what we should do if we get requests for them. Councilman Uhteg stated he will take the information, and check on current pricing.

Attorney for the Town Anthony DiFilippo, III updated the Board on Legal matters affecting the Town. He stated that as to the status of the Waste Management cases, one involving the challenge to the Zoning Ordinance, he had filed a Motion for Summary Judgement on behalf of the Town, which was to be argued on August 6th. He has now received a request for an adjournment by the Concerned Citizens' attorney, alluding to the fact that the Concerned Citizens and Waste Management have been talking regarding a settlement. Mr. DiFilippo stated that the September trial is now off, and if the case is not settled, the Motion for Summary Judgement will be heard in early October. He stated that the Concerned Citizens are also asking for an extension in the Appellate Division Co-Generation plant matter. Attorney DiFilippo stated that the briefs have all been filed to perfect the Appeal on behalf of the Town. He felt they may receive some extension, but not as long as they want. In the Gernatt/ZBA litigation, the Town's Record on Appeal was printed today, and the briefs will be filed in the next few days. Attorney DiFilippo stated that as to the Gernatt Notice of Claim against the Town and individuals on the Town Board, he is recommending that it be discussed in Executive Session. Concerning the Waste Management Borrow Area matter, Mr. DiFilippo stated that the comment period is now closed, but the Town cannot make a decision until the Findings have been released by the Lead Agency, the DEC. Mr. Lewis of Waste Management feels that will happen next week. The Town has 62 days from the time of the Public Hearing, but Mr. DiFilippo stated that the timetable is to be determined by the release of the Findings by the DEC, and the Town may have their own findings after the hydrology report comes back. The Attorney stated that the Board has been copied on everything to date in both the Webber matter and the West matter, and stated that the Court has decided that there will be no payment by the Town in the Hornberger accident matter.

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

Highway Superintendent Walter J. Baker gave a report of his department's activities. He stated that the chip sealing has been completed on Johnson Rd., Domes Rd. and Hardware Ave. Mr. Baker also stated that there was not much flood damage from the recent flooding, and the wash outs were minimal. The Highway Superintendent stated that the 1974 Draught is down and out and told the Board that a new one will be needed, and to prepare for the request at budget time. Mr. Baker stated that the new truck was received today and is at the Highway garage, and will be put on display at this building as soon as the license plates are put on. He stated that the Paper Retriever recycling bid needs to be moved and they will put it in a better spot. Councilman Uhteg stated that he has notified Mr. Baker that more grills are needed at Manion Park, and Councilman Phelps stated that the "No through Traffic" signs are broken there also. Virginia Domes, Co-Chairman of the Labor Day in the Park committee, requested that the new Highway truck be put on display at the Park on Labor Day. Mr. Baker stated he will ask Don Hopkins to take it up there.

There were no Planning Board minutes, nor ZBA minutes. On a motion by Phelps, seconded by Hannon, all reports and minutes were received and filed. Carried, 4 ayes, 1 absent, 0 noes.

After review by Board members, Councilman Hannon questioned if there were vouchers for two separate firemen, and if the Board should vote to approve payment separately. The Supervisor's Secretary explained the chronology of the reporting. The medical payments were discussed and it was agreed that approval for payment is done upon approval of the bills. On a motion by Phelps, seconded by Uhteg, General Fund Warrant #8, including vouchers #371 through #425 and totaling \$38,806.39; and Highway Fund Abstract #8, including vouchers #109 through #120 and totaling \$13,670.20 were approved for payment. Carried, 4 ayes, 1 absent, 0 noes.

Under Privilege of the Floor:

David Malachowski spoke on behalf of the American Legion, stating that their annual Steak Bake was well attended, and that the Legion appreciates the Town's support, and stated that the Park was in great shape. He also commented that he feels the Board should be more careful when discussing medical bills.

Ryan Holland of Pratham Rd. asked the Board for its assistance. He stated that he and 5 other neighbors in his area have lost their water, in some cases had to drill new wells, and are not sure why. Mr. Holland noted that there has been seismic testing for natural gas well drilling purposes, as well as the well drilling itself. The matter was discussed and the Supervisor stated that the Town will investigate.

Robert Kaiser of Savage Rd. asked the Highway Superintendent about Savage Rd. and what parts the Town maintains. Mr. Baker stated it is a County road, and the Town snowplows from the bridge to Allen Rd. but does not do any blacktopping or that sort of maintenance. Mr. Kaiser stated it seems that Savage Rd. from Matteson Corners to Allen is a lost area, and he is going to write a letter, and wanted to make sure who is responsible. He also wanted to put on record an anonymous letter concerning the Waste management Borrow Area proposal that he and others in his area received in the mail, naming Town Board members and individuals who feel there is no problem with the proposal and that it will not affect the water. The Supervisor stated she will contact someone about the roads.

Peter Sorgi, as Attorney for the Chaffee Water Company, stated that his client, Rod Franz is also frustrated with the delays in the water system renovation project, and that he and the new Engineer, Michael Metzger, were brought in a month ago for one purpose, and that is to get the project done. He stated if anyone has any questions, they can contact him, and an even better suggestion would be for the Town's engineers to contact the Water Company's engineers to talk about timeframes. The Supervisor asked Mr. Sorgi if it a conflict of interest for him to represent both the Water Company and Gernatt Asphalt because Gernatt offered money to the Water Company. Mr. Sorgi stated he feels that is the opposite of a conflict. She suggested that it may be a conflict because Gernatt was looking for a permit, and because the Town is in litigation with Gernatt. Mr. Sorgi stated that Chaffee Water Company has nothing to do with that, and if she felt there was a conflict of interest, she should report him to the BAR Association.

The Supervisor stated that, concerning the fence at Community Center, Councilman Phelps has recommended that the town contract with Springville Fence to install fence around the playground with, according to the specified specs, at a cost not to exceed \$2000. On a motion by Uhteg, seconded by Phelps, the Board accepted the proposal of Springville Fence, at a cost not to exceed \$2,000.00, and authorized Supervisor Balus to execute the contract for that work. Carried, 4 ayes, 1 absent, 0 noes.

The Supervisor stated that, concerning the matter of tractor trailers in a residential area. She stated that Larry and Paulette Green have now submitted a petition containing 53 names, not necessarily from the roads where these trucks are parked. She opened the floor to Board members. Councilman Uhteg began by reading the petition, which states that they are asking for "No overnight parking of all 18 wheel tractor trailer combinations and or weight limit exceeding more than 30,000 lbs. on all residential streets." He then asked Attorney DiFilippo what is a residential street. Mr. DiFilippo stated he felt that all streets have homes on them, and therefore, are considered residential. He stated the Town would only have jurisdiction on Town roads. Supervisor Balus stated that the matter has been discussed extensively; the people who currently have the trucks would most likely be "grandfathered". She stated it is a complicated and frustrating matter and feels the Board can do nothing for them.

A poll was taken of the Board members, and thought they all sympathized with the Greens because of their unhappiness with the situation; none were in favor of passing legislation. Mr. Green once again asked who authorized the removal of the "No Trucks" signs, and the Highway Superintendent stated he had them removed because they were never authorized by the Town Board. Mr. Baker stated that if the trucks were parked on the street, he could control them but they are parked on private property. He also stated that the weight limit they are seeking would be so low that his new highway truck would, unloaded, would not be allowed on the road. The Supervisor stated it is a difficult situation, but she feels there is no Board support for any action to be taken. Mrs. Green stated that she has talked to people who feel there should be a restriction on trucks in the area. The Supervisor stated those are just opinions, that there just isn't any legislation to suppress or eliminate tractor trailers in residential areas and that's just the way it is.

Supervisor Balus stated that the town has received three prices for drafting of a Parks Master Plan Proposal. They are:

TVGA	\$29,000
Professional Landscape Architects Services	\$22,000
William Arlow, Registered Landscape Architect	\$17,450

The Supervisor explained that Mr. Arlow is a Town resident, and has a partner, Peter Tarnaskyj, who, together would do the project. She and Councilman Uhteg outlined their credentials and the reasons they would recommend them for the project. Supervisor Balus stated they felt they could have the Plan done by March, and stated that she would like to see it done now, rather than let one more year go by. She stated she was very impressed with them and feels that Mr. Arlow and Mr. Tarnaskyj would do an excellent job. Councilman Hannon asked what Mr. Uhteg's idea of a budget for any renovations would be. Mr. Uhteg stated there would be a low, medium, high type budget. Ms. Hannon asked if they are talking \$100,000.00? She also stated there have been plans proposed before, and nothing has been done with them, and questioned if this Plan would ever be used. Supervisor Balus stated that this is what a Master Plan would state, how much needs to be spent, and some of the ideas of what is needed would come from the shareholders, which are the residents. It was noted that the cost for the Plan is in the budget. The project was discussed. Councilman Phelps stated she could see the need for a Master Plan but could see Ms. Hannon's point that future Boards would not be held to this plan, and may not use this one. After discussion, a motion was made by Phelps, seconded by Uhteg, to contract with William J. Arlow of Olean Rd., Chaffee, to do a Parks Master Plan, at a cost not to exceed \$17,450.00. Upon roll call vote, Hannon, no, Montgomery, absent, Phelps, aye, Uhteg, aye, Balus, aye. Motion passes, 3 ayes, 1 absent, 0 noes.

Supervisor Balus stated that Justice Vossler is asking for Board approval authorizing her to apply for a grant through the NYS Office of Justice Court Administration to upgrade the S.E.I. Court Program from single to multiple users, and for some miscellaneous equipment. The following resolution, to be known as Resolution #20 of 2009, was introduced by Hannon, seconded by Uhteg:

RESOLUTION #20 – 2009

BE IT RESOLVED, the Sardinia Town Board hereby authorizes the Sardinia Justice Court to apply for grant funding through the NYS Office of Court Administration.

Upon roll call vote, Hannon, aye, Montgomery, absent, Phelps, aye, Uhteg, aye Balus, aye. So Resolved, 4 ayes, 1 absent, 0 noes.

The Supervisor stated that, concerning Tiny Tots Personnel for this year, Councilman Phelps has recommended that the Town hire Christine Eisensmith as Head Tiny Tots instructor; and Christine Hulton and Cortnee Stampone as Tiny Tot instructors commencing September 1st, and at the rates that were established at the organizational meeting. The following resolution, to be known as Resolution #21 of 2009, was introduced by Phelps, seconded by Hannon:

RESOLUTION #21 – 2009

RESOLVED, the Sardinia Town Board hereby hires Christine Eisensmith as Head Tiny Tots instructor; and Christine Hulton and Cortnee Stampone as Tiny Tot instructors commencing, September 1st, and at the rates that were established at the organizational meeting.

Upon roll call vote, Hannon, aye, Montgomery, absent, Phelps, aye, Uhteg, aye Balus, aye. So Resolved. 4 ayes, 1 absent, 0 noes.

The Supervisor stated that the Town has advertised for sealed bids for the carriage shed/museum roof at the Old Town Hall, now known as The Meeting House. Councilman Uhteg opened and read the bids, which were as follows:

Hoffman Construction, Holland, NY	\$7,495.00
TNT Construction, Arcade, NY	\$5,900.00
Greg Hopkins Construction, Sardinia, NY	\$6,375.00
Dan Rice, Contractor, Sardinia, NY	\$4,945.00
Sahlem's Roofing, West Seneca, NY	\$7,314.00
John Hulton Construction, Sardinia, NY	\$7,225.00
Ed Hume, Inc., Warsaw, NY	\$11,200.00
Wiedeman & Son Construction, Sardinia, NY	\$8,000.00

The Supervisor stated that, if all bids are found to be in order, it appears that Dan Rice is the low bidder at \$4,945.00. She stated we would need a contract with him and certificates of insurance. Supervisor Balus stated that if something is found to be wrong with Mr. Rice's bid, the next lowest bid is TNT Construction at \$5,900.00. The following resolution, to be known as Resolution #22 of 2009, was then introduced by Phelps, seconded by Uhteg:

RESOLUTION #22 - 2009

BE IT RESOLVED, the Sardinia Town Board hereby awards the bid for The Meeting House's carriage shed roof to Dan Rice, Contractor, with the low bid of \$4,945.00, subject to the review and approval of Councilman Uhteg, and Town Attorney Anthony DiFilippo, III, and if Mr. Rice's bid is found to not be in order, the bid will be awarded to TNT Construction, the next lowest bidder, at \$5,900.00.

Upon roll call vote, Hannon, aye, Montgomery, absent, Phelps, aye, Uhteg, aye Balus, aye. So Resolved. 4 ayes, 1 absent, 0 noes.

Councilman Hannon asked if the Board was interested in adopting a resolution concerning the County's proposed change to the tax cycle, as the Town of Newstead and other municipalities have done. The Clerk explained what the changes would mean to residents, which included lower initial penalties for late payments, and an earlier date to pay taxes. The Supervisor stated she would like to research it further and discuss at the next meeting.

Questions were as follows:

John Schiener of Sardinia suggested that, pertaining to the commercial vehicles in a residential area, the Town should look into perhaps adapting the current Code placing weight limits on 2 roads, or, since he feels it is a land use issue, send it on to the Planning Board. That suggestion was discussed, and a representative of the Planning Board stated that the Planner has advised them it should be done by Local Law, which would be the Town Board's jurisdiction.

Councilman Hannon asked Councilman Uhteg why, after the Town Board asked her to find a hydrologist, Mr. Uhteg contacted the Attorney about the matter and the charges are on the Attorney's bill. She stated that Mr. Uhteg should have contacted TVGA himself, and not incurred attorney charges. Mr. Uhteg stated he wanted to make sure that the questions asked were the right ones, and the attorney knew the right questions to ask.

On a motion by Phelps, seconded by Uhteg, and carried, 4 Ayes, 1 absent, 0 noes, the Board moved into Executive Session at 9:35 PM to discuss the Gernatt Notice of Claim against the Town. The Board resumed Regular Session at 9:54 PM, stating that the legal matter had been discussed but that no action had been taken.

Announcements were as follows:

- The next Regular Town Board Meeting will be held September 9, at 7:30 PM
- A Waste Management quarterly informational meeting will precede that meeting, starting at 7 PM on Sept. 9, 2009
- Planning Board meetings will be held on August 19 at 7:30 PM and September 1, 2009 at 7:30 PM.

Other Information was as follows:

- Labor Day in the Park will be held on September 7th from 11 AM until 5 PM.

There being no further business to come before the Board, on a motion by Phelps, seconded by Uhteg, the meeting was adjourned at 9:55 PM. Carried, 4 ayes, 1 absent, 0 noes.

Respectfully Submitted,

Town Clerk