

9-9-2010 – REGULAR BOARD MEETING

Present:

Councilman Cheryl L. Earl
Councilman Daniel L. Miller
Councilman David L. Montgomery
Councilman Norman J. Uhteg
Supervisor Mary L. Hannon

Also Present:

Attorney for the Town Linda Joseph
County Legislator Dino Fudoli
Town Clerk Betsy A. Marsh
35 guests

The Sardinia Town Board held its Regular Town Board meeting for September on September 9, 2010 at the Sardinia Community Center. Supervisor Mary Hannon called the meeting to order at 6:30 PM, with the Pledge to the Flag and a moment of silence, remembering the anniversary of 9/11 coming up.

The Supervisor then introduced Legislator Dino Fudoli, who was on hand to speak to the residents on hand. He stated he would like to schedule a quarterly visit to Sardinia, explaining that he was double booked for tonight and is unable to stay and talk one-on-one with those in attendance. He stated there are 7 Towns and 2 Villages in his district, and wants to visit them all on a regular basis. Mr. Fudoli stated that the biggest concern expressed by the people in his district is the condition of the County roads, and the Supervisor stated that Sardinia is happy that Genesee Rd. in the Town has received some needed work, and hopes that will continue. Legislator Fudoli stated he hope so too, but stated the County Executive has asked each County Commissioner to cut 20% of their budget. He stated that he is in favor of cutting government waste, and is all for a shrinking government, but at the Albany level, not the local level.

Supervisor Hannon stated that before the approval of the minutes from last month's meeting, she wanted to clarify what she said concerning the turning over of the Old Town Hall/Meeting House to the Historical Society. She stated that what she was trying to say was that there was \$23,000 left in the 2010 Budget for that building, and that it costs approximately \$5,000 to \$6,000 to run the building each year. The Supervisor stated that the minutes were correct as written, but she had stated the financials badly, and wanted that clarification on the record. On a motion by Earl, seconded by Montgomery, the minutes of the August 12, 2010 meeting were approved as written. Carried, 5 ayes, 0 noes.

Supervisor Hannon reported that she has requested a new set of by-laws from the Fire Company, as well as an updated list of non-resident members of the Company. She stated that the Fire Company currently has 7 non-resident members. The Supervisor stated that the Town needs an accounting of out-of-town members, stating that the Town Clerk has letters asking for approval of members, but no notification when their status changes, whether they become in-town members, or leave the Fire Company. Supervisor Hannon stated that she has received a check for reimbursement for the crime policy; has sent a check to NYSEG for the new intersection streetlights, and is hoping that the work is done before winter; stated the energy audit is nearly complete. She stated that concerning the discussion of health insurance with the Highway Employee's Association, there has still been no agreement on a company, and the Board may set up a Special Meeting for discussion of that issue. She also stated that Blue Cross & Blue Shield is projecting an increase of between 14% and 19%. The Supervisor reported that several Town officials and employees attended a CPR and AED training class last evening given by Kathy Landahl of Arcade so they may become certified to use the new defibrillators that are to be installed at the Town Hall and the pool. She thanked Mike Shaw of the Fire Company, who has coordinated the whole AED program, and has written up a policy for the use of the new life saving equipment, which she would like to put it on next month's agenda for approval. She asked the Board to consider what should be done with the AED that will be installed at the pool. It was felt that it should not be placed at the pool during the winter, and after discussion, a motion was made by Miller, seconded by Earl, to have the Highway Department store the AED unit at the Highway Garage for the winter, and urge that Department to get the training for certification to use the AED. Carried, 5 ayes, 0 noes. The Supervisor stated that she has received a proposed contract with the Legion from David Malachowski, and will turn it over to Attorney for the Town Joseph for review, and will place it on the October agenda. Supervisor Hannon stated that she has received a letter from the Unified Court System and has spoken to the two Justices about the letter, which informs that an audit of the Justice Court for last year is needed. She stated hat the Town Board could do the audit, but felt that since one of the Board members was related to the Court Clerk whose books would be audited, it might be a good idea to have an independent audit done. Councilman Montgomery stated that this might be a good time to have all departments audited, including the Highway Department, Fire Company, etc. Supervisor Hannon stated that the Highway Department, as well as other town departments, had been done at the beginning of the year by the accounting firm of Drescher & Malecki, contracted to provide accounting and audit services to the Town, but that the Fire Company has not been done this year. Therefore, the following resolution, to be known as Resolution #68 of 2010, was introduced by Earl, seconded by Montgomery:

**RESOLUTION #68 – 2010
APPROVAL TO CONDUCT AUDIT OF TOWN COURT AND FIRE COMPANY**

RESOLVED, the Sardinia Town Board hereby approves the conduct of an audit of the financial records of the Sardinia Town Court Division, and also the conduct of an audit of the financial records of the Memorial Volunteer Fire Company of Chaffee-Sardinia, Inc., by the Town's auditing firm of Drescher & Malecki.

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

The Supervisor stated she and Councilman Earl are currently working on the 2011 Budget and are waiting for figures from

the Fire Company, stating that Fire Company President Danny Heineman was going to get a letter to her. She stated she plans on filing the Tentative Budget with the Clerk on September 24th, would like to schedule a Work Session on the Budget for September 30th at 6:30 PM, and the Public hearing on the Budget on October 14th at 6:00 PM. She stated that since it is also time for the Community Development Grant application, she would also like to schedule the Public Hearing on that for October 14th at 5:45 PM. The Clerk will advertise these meetings. The Supervisor stated she has received a letter from Peter Sorgi, attorney for Gernatt Asphalt, concerning the Variance and an e-mail from Mr. Zicarelli concerning the land mitigation, and she stated it appears that they are complying with all the conditions that were included in the ZBA Variance, stating she wanted to put that on the record. Supervisor Hannon then presented Certificates of Appreciation to Councilman David Montgomery, Ronald Kenyon, and the Town of Sardinia from Erie County "in recognition of your partnership and performance during the H1N1 pandemic, and your dedication to the residents' of Erie County".

Councilman Uhteg reported that he had spoken to NYSEG and they have informed him that the work on the new intersection streetlights should begin in three to four weeks. Mr. Uhteg also commented on the closing of the pool on August 31st, stating that it was during the hottest week of the summer, and he received several calls from people wanting to know why the pool wasn't open. He stated that next year, he would like to see it open until after Labor Day, as in previous years. He also noted that the Agreement with the American Legion has been given to the Supervisor.

Councilman Montgomery reported that the Seniors are planning another trip, this time to the Grand Canyon of the East, and would like the funding approved for the trip. Dick Rogers stated they are asking that \$3,500.00 be approved, and \$1,300.00 will be paid by those attending. The following resolution, to be known as Resolution #69 of 2010, was then introduced by Montgomery, seconded by Miller:

**RESOLUTION #69 – 2010
APPROVING FUNDING FOR SENIOR CITIZENS TRIP**

RESOLVED, the Sardinia Town Board hereby approves funding in an amount not to exceed \$3,500.00 for a Senior Citizens excursion to the "Grand Canyon of the East" on October 6, 2010.

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

Councilman Montgomery stated he is meeting with the sidewalk contractors tomorrow morning, and stated that they have not been able to do the landscaping yet due to the wetness of the ground and the topsoil. He stated he has set up a rabies clinic at the Highway Garage for Saturday October 16th. After discussion, it was decided to hold the clinic from 10 AM until 1 PM. Mr. Montgomery stated that last year, we also paid \$50.00 for a Veterinarian technician, and stated that the Veterinarian he contacted told him the vaccine should only cost between \$1.00 and \$2.00. The Supervisor noted that last year, approximately 100 vaccinations were given, and were free to Town residents. Councilman Earl made a motion, seconded by Montgomery, to advertize the clinic, and to approve payment for the vaccine, and \$50.00 for the veterinarian technician. Carried, 5 ayes, 0 noes. Councilman Montgomery stated he has been trying to set up an AARP Safe Driving Course, and stated he has e-mailed them of that intention. He stated the problem is that there is one scheduled in Springville on September 21st and 22nd at a cost of \$12.00 for members, and \$14.00 for non-members. He stated the problem is that, being as it is so close to Sardinia, they won't do another one. Mr. Montgomery stated that the cheapest he can get the other group to hold one is \$25.00. He stated he would wait until he heard from them,, but if anyone is interested in attending the Springville course, they can call him for information. He also reported that he had attended the three day ICS 300 Course for Homeland Security in Little Valley last month, and also attended the Public Assistance Workshop for natural disasters. He stated that the disaster must be Countywide and do a minimum of \$3 million in Damage County wide in order for reimbursement to be made. He stated he has the paperwork for that. Councilman Montgomery stated that the annual Senior Flu Clinic will be held on Friday October 29th from 9 AM until 1 PM, and stated that Waste management has agreed to do a brunch again this year.

Councilman Earl reported that she is working on a Town Policy Manual/Employee Handbook, and stated she will get copies to all Board members, and asked members to call or e-mail her with thoughts, additions or changes. She stated the document could be adopted next month. She stated that the manual updates the Town policies to the new technology, and addresses everything from FMLA to vacation time. Councilman Earl stated that concerning the Tiny Tots program, there are 9 children signed up, and stated she is glad that the Board agreed to take the program to only one session per day, stating that at one time there was a great need for the program, but the school systems now have the Universal Pre-K programs, and the Town may have to take a good look at the Tiny Tots Program for next year. She stated that a couple of Winter Recreation programs have been discussed, including Friday night movie nights and the Tiny Tots have expressed that they would like to help decorate for the Kiwanis' annual Halloween party. Councilman Earl stated that she comes from an H.R. background and stated she would like to implement a drug screening program, similar to what the Highway Dept. is required to have, for all Town employees as a hiring screen. She explained that she is exploring the legalities of such a program and stated it would be for new hires, and appointed officials. Attorney Joseph stated she is helping Ms. Earl research the legalities of such a program. Councilman Earl stated she is in need of more information, and will update the Board when she has more.

Councilman Miller stated he has been working with the Planning Board on the proposed water district on Rt. 16 and east Schutt Rd. He stated there is a meeting tentatively set for September 28, 2010 with the Erie County Health Dept., and the Towns of Arcade and Yorkshire, and Clark Patterson Lee. He stated he will know more next month. Mr. Miller stated that he has also been working concerning the Old Town Hall/Meeting House, he has received quotes for some of the needed work on that building, including gutters, asbestos removal, and furnaces. He stated he has two quotes for gutters, as follows:

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| Mountainview Builders | \$1,944.00 |
| Springville Window and Door | \$2,315.00 |

Councilman Miller stated he would like a motion tonight to go ahead and hire Mountainview Builders to install the gutters. Councilman Uhteg asked if the materials were the same, and the materials were discussed. Supervisor Hannon asked if the gutters and straps are commercial grade, and suggested that Mr. Miller ask Mountainview to make certain. She stated the

Board could approve a motion, with the stipulation that the gutter system is a commercial grade. On a motion by Miller, seconded by Montgomery, the Board approved the hiring of Mountainview Builders to install gutters on the Meeting House, with the stipulation that they are commercial grade gutters and straps, at a cost of \$1,944.00. Carried, 5 ayes, 0 noes. Councilman Miller stated he has also received quotes for the 4 furnaces required for the building, as follows:

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| Vacinek Heating and Roofing | \$12,120.00 |
| Strykersville Pro Hardware | \$13,175.00 |
| Heineman Plumbing & Heating | \$17,500.00 |

Councilman Uhteg asked if these should have been bid out and sent in as sealed bids. It was determined that the Attorney should review the bid threshold, and bring the matter back at the next meeting. Councilman Miller stated that the other project is asbestos removal, and the quotes are as follows:

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| Stohl Remediation Services | \$6,740.00 |
| Great Lakes Abatement Co. | \$9,212.00 |
| Frontier Insulation | \$16,905.00 |

Councilman Miller stated that since this a large abatement project, the Town will be required to hire an independent environmental inspector at a cost of about \$1,500.00. Mr. Miller also suggested that the funding of this project be made from the new Environmental Fund, and stated the total cost would be less than \$8,500.00 if the low bidder is hired. On a motion by Uhteg, seconded by Montgomery, Stohl Remediation Services will be hired to do the asbestos removal work, and the total cost of the project, not to exceed \$8,500.00, will be funded from the Town's Environmental Fund. Carried, 5 ayes, 0 noes. Discussion was then held concerning the furnaces, and it was determined they should be put out for sealed bids. On a motion by Earl, seconded by Montgomery, the replacement furnaces for the Old Town Hall/Meeting House will be advertized for sealed bids, and opened at the October 14, 2010 meeting. Carried, 5 ayes, 0 noes.

Attorney for the Town Linda Joseph reported that she has been working extensively on the Firemen's Pension Program and will hold her report on that matter until last. She reported that she has reviewed and worked on the Oil & Gas Lease and the Snowplowing Contract with Erie County and both of those issues seem to be completed. Attorney Joseph also reported that the Town has been notified by the attorney for the insurance carrier that the Webber case has been settled in the amount of \$6,300.00, and that in the Smithmeyer case, which was the accident involving the Town snowplow, there may be a settlement soon. She stated she has also been working on the proposed water district, and Attorney Alicia Rood, who has an extensive background on such matters, as well as another attorney in her firm, have been assisting her with that project. Attorney Joseph reported that she has been working toward having the deed for the Old Town Hall conveyed to the Historical Society. Ms. Joseph stated she has received the notices spoken about earlier by the Supervisor, concerning Gernatt's compliance with the stipulations of their variance and the DEC's acceptance of the final reclamation at Gernatt's Chaffee pit. The DEC letter also releases them from and further reclamation obligations at that site, and releases the reclamation bond. Attorney Joseph stated she has also spoken to the Fire Company's attorney, who stated he understands why the Town needs information, and stated that he had concerns about Affordable Benefits from the beginning, stating they were not among the companies he felt should have been engaged, and had conveyed this to the previous administration. Ms. Joseph stated he felt that a referendum was needed to correct the plan documents. She stated the termination letter has been sent out, and then outlined several problems that have since come to light concerning Affordable Benefits. She stated she has been in contact with the Comptroller's office for the slit of approved companies, and found that there really is no list, and upon further investigation, found that there are only four companies reputable, including Hilltine, who handles the Town of Concord and the Village of Springville programs, Penflex, VFIS, and RBC from Albany. Attorney Joseph is recommending that the Board authorize Supervisor Hannon to send letters to these companies. She stated that representatives from the Fire Company and the Town Board should attend the meetings with the companies, and the Supervisor should ask that the proposals be sent back a week in advance so that the Board has time to review before the meeting. Ms. Joseph stated that a new program administrator must be in place by January 1, 2011. She also recommended that a sub-committee of the Board be set up to look at the investments. She suggested also that the committee contact other towns who have such LOSAP programs and see if they are happy with the companies they have in place. Councilman Earl asked when a new administrator needs to be in place, and was told it needed to be done by the end of the year. Attorney Joseph stated that the Fire Company's attorney feels that a new referendum may need to be held because the plan document needs to be corrected. The Supervisor asked if it could get on the November ballot, and Attorney Joseph stated she thinks it can. Ms. Joseph stated she would like to see someone on the Board make a motion tonight to authorize the Supervisor to send the letters, and to set up the Board committee. After discussion, on a motion by Earl, seconded by Montgomery, Supervisor Hannon and Councilman Earl were named as the Board Committee who will choose a new Program Administrator for the Firemen's LOSAP program. Carried, 5 ayes, 0 noes. The following resolution, to be known as Resolution #70 of 2010, was then introduced by Earl, seconded by Montgomery:

**RESOLUTION #70 – 2010
AUTHORIZING THE SUPERVISOR TO SEND LETTERS
FOR POSSIBLE PROGRAM ADMINISTRATORS**

RESOLVED, the Sardinia Town Board hereby authorizes Supervisor Mary L. Hannon to send letters to the four companies approved by the State Comptroller's Office as possible Plan Administrators for the Firemen's LOSAP Program and to start the process for appointing a new Plan Administrator.

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

Under Public Comments:

Paulette Green of Deerfield Dr. asked to speak, and Supervisor Hannon informed her that if she was going to talk about the same topic she has talked about at previous meetings, she would be asked to sit down. The Supervisor stated that at last month's meeting it was determined that it is not a Town issue. Mrs. Green stated this is different in that it has now become a

health issue, stating that they are being awakened at 2 AM by the 18-wheeler, and the diesel fuel smell is making them sick. Supervisor Hannon stated she understands and is sympathetic, but it is not a Town Board issue.

Larry Green of Deerfield Dr. asked why the Board can't pass resolution keeping 18-wheelers off residential streets. He stated he doesn't feel that they should have to deal with the truck on their street. Supervisor Hannon told Mr. Green that it has been determined that this is not a Town issue. Councilman Uhteg asked if the Attorney for the Town could research the issue and get back to the Board. The Supervisor agreed to have her do so.

Michael Hannon of Pratham Rd. stated that there will be a Republican picnic at the Park on September 11 from 7 to 9 PM, and stated that everyone is invited, no matter what affiliation, stating there would be music and barbeque chicken. Supervisor Hannon stated she could not let him continue on since he was speaking of a political issue. He indicated that they have paid for the shelter and provided a certificate of insurance for the event.

David Malachowski asked to address the Board, but was not allowed to speak because he had not registered to speak before hand.

On a motion by Montgomery, seconded by Miller, the public comment period was closed. Carried, 5 ayes, 0 noes.

Supervisor Hannon then asked for a motion to approve payment of the bills, and on a motion by Montgomery, seconded by Earl, General Fund Warrant #9 of 2010, including vouchers #476 through #533, totaling \$33,650.70, and Highway Fund Abstract #9 of 2010, including vouchers #111 through #125, and totaling \$9,925.98, were approved for payment. Carried, 5 ayes, 0 noes.

Under New Business:

Supervisor Hannon stated that the snow removal contract with Erie County for the years 2010 through 2013 has been reviewed by the Attorney and is now ready for execution, therefore the following resolution, to be known as Resolution #71 of 2010, was moved for adoption by Montgomery, seconded by Uhteg:

**RESOLUTION #71 - 2010
ERIE COUNTY SNOW REMOVAL CONTRACT
FOR 2010 – 2013 YEARS**

WHEREAS, the County of Erie has approved a Snow Removal and Ice Control Agreement for the Years 2010 through 2013, and

WHEREAS, the Town Board has reviewed the County Resolution dated July 22, 2010 that sites the below listed agreed amounts for payment:

September 1, 2010 through August 31, 2011 - \$3,077.67 per lane mile
September 1, 2011 through August 31, 2012 - \$3,231.55 per lane mile
September 1, 2012 through August 31, 2013 - \$3,393.13 per lane mile

WHEREAS, the Attorney for the Town, the Sardinia Town Board, and the Sardinia Highway Superintendent has reviewed and approved said agreement between the Town of Sardinia and the County of Erie, and

NOW, THEREFORE, BE IT RESOLVED: The Sardinia Town Board authorizes Mary L. Hannon, Supervisor to execute the said agreement between the Town of Sardinia and the County of Erie accepting the above mentioned schedule of payments for the Snow Removal and Ice Control Agreement for the years of 2010 through 2013.

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

The Supervisor stated that the Non-Surface Development Oil & Gas Lease, also known as the pooling agreement, between the Town and Ardent resources for the Pratham Rd. cemetery property has been reviewed and approved for execution by Attorney Joseph. Attorney Joseph stated that Ardent seems to be one of the easier drilling companies to deal with. The following resolution, to be known as Resolution #72 of 2010 was then introduced by Earl, seconded by Montgomery:

**RESOLUTION #72 – 2010
Authorizing Execution of the Non-Surface Development Oil & Gas Lease**

BE IT RESOLVED, the Sardinia Town Board hereby authorizes Supervisor Mary L. Hannon to execute the five year Non-Surface Development Oil & Gas Lease between the Town of Sardinia and Ardent Resources for the Town of Sardinia Pratham Rd. Cemetery property, to become effective the 10th day of February, 2011.

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

Supervisor Hannon stated that the Highway Superintendent, Donald Hopkins has not yet appointed a Deputy Highway Superintendent, and has asked that Robert Hutchinson be named to that position. Therefore, the following resolution, to be known as Resolution #73 of 2010, was moved for adoption by Montgomery, seconded by Earl:

**RESOLUTION #73 - 2010
TO FILL THE VACANT POSITION OF
DEPUTY HIGHWAY SUPERINTENDENT**

WHEREAS, the Sardinia Town Board approves the following vacant position filled:

Robert Hutchinson - Deputy Highway Supervisor - \$670 for the year 2010.

NOW, THEREFORE, BE IT RESOLVED, the Sardinia Town Board approves the appointment of Robert Hutchinson as Deputy Highway Supervisor with above mentioned rate for this calendar year to fill a vacant position.

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

Supervisor Hannon stated that Clint Salmon has approached her, stating that there is a vacancy on the Board of Directors for the Rural Transit Van Program, and she has agreed to have her name submitted for their consideration, if the Board approves. On a motion by Earl, seconded by Montgomery, the Board approved Supervisor Hannon's appointment to the Rural Transit Van Board of Directors, should she be approved by them. Carried, 5 ayes, 0 noes.

There being no further business to come before the Board, on a motion by Miller, seconded by Earl, the meeting was adjourned at 7:50 PM. Carried, 5 ayes, 0 noes.

Respectfully Submitted,

Town Clerk