

**1-9-2008 – REGULAR TOWN BOARD MEETING**

Present:

Councilman Ann M. Bean  
Councilman Heather M. Phelps  
Councilman Norman J. Uhteg  
Supervisor Kathleen M. Balus

Absent:

Councilman Matthew L. Mumbach

Also Present:

Attorney for the Town Anthony DiFilippo, III  
Highway Superintendent Walter J. Baker  
Town Clerk Betsy A. Marsh  
approx. 25 guests

The Sardinia Town Board held its regularly scheduled Board meeting for January on January 9, 2008 at the Sardinia Town Hall/Community Center. Supervisor Balus called the meeting to order at 7:30 PM, with a moment of silence, asking for all to remember our servicemen and women fighting for our freedoms in Iraq and Afghanistan. She then led the Pledge to the Flag.

The Supervisor thanked those who set up for the meeting each month, and make coffee and cookies to make the meeting more comfortable for everyone.

The Town Clerk has submitted the minutes of the December 14, 2007 Regular Town Board meeting, and the 2007 End of the Year Meeting, which were approved and filed on a motion by Bean, seconded by Phelps, and carried, 4ayes, 1 absent, 0 noes.

The Supervisor thanked the Christmas tree lighting committee, headed up by Laurie Smith, and a special thanks to the men who took the tree down yesterday. The Supervisor gave her report for the month of December, and asked Judy Tobin to present the Community Cause check for the month. Mrs. Tobin stated that cause was bedding for our troops in Afghanistan, and she then presented a check in the amount of \$246.00 to Nicole Bodine, who thanked those who donated, and will sent the bedding on to those in Afghanistan. Mrs. Tobin stated that this month's Community Cause is the Sardinia Historical Society and Old Town Hall. The Supervisor also reported that she has:

- Revised and presented the Procurement Policy to the Board for approval at end of year meeting, *as per the audit report*
- Met with TVGA Consultants regarding an On-Call Agreement for Professional Services to Town of Sardinia and has reviewed it with Attorney DiFilippo.
- Met with Paul L. Luderman, CPA, regarding Professional Accounting Services to Town of Sardinia; and has reviewed that matter with the Attorney.
- Received notification that the CDBG for 2008-2009 Project for the renovation for the Sardinia Municipal Pool was not selected for funding.

Supervisor Balus then brought up a new section of the agenda, which she stated would list some items for discussion only. She stated that this month includes the Highway vouchers and abstract that went missing just before the December 27<sup>th</sup> End of 2007 meeting. She stated that security may become an issue, and some reorganization of the conference room should be done. She stated she is working on a sketch and some plans for a secure area. Also she stated that the Board needs to decide if it wants to require the ZBA meetings be taped, or if they can even legally require it. She asked if the Town should purchase a tape recorder. Attorney DiFilippo stated that the ZBA and the Planning Board may, by law, adopt their own rules, but he stated he feels its important that the Board make the suggestion that a stenographer be hired, at least for those types of hearings such as the Gernatt Variance hearing. Supervisor Balus stated that the Board should think about the matter and it will be brought back up at the next meeting. She then asked if an Ethics Committee should be formed, and, if so, how many members, and who appoints these members. She suggested that the Board review the current Ethics Law and see what the Board might want to do about that issue.

In Committee reports, Councilman Phelps gave the Youth report, stating that there will be a Winter Carnival in the gym on February 2<sup>nd</sup>. She was not given a time, but believes it is from 1 PM until 4 PM. Councilman Phelps also stated that the Youth Committee would like to extend an invitation to the Supervisor, her secretary, and Councilman Uhteg to attend their next meeting on the 1<sup>st</sup> Wednesday of February at 7:00 PM in the cafeteria to discuss the pool, what needs to be done, and to get ideas, before hiring staff. Supervisor Balus stated she wonders if we are competitive with our pay rates, and perhaps that should be reviewed.

Attorney for the Town Anthony DiFilippo, III was on hand to report on legal matters affecting the Town. He stated that in the status of litigation, the Article 78 proceeding brought by the Board against the ZBA concerning the Gernatt matter has been assigned to Judge Devlin and was scheduled for tomorrow, January 10, 2008, but at the request of the ZBA's attorneys, has been rescheduled for January 31<sup>st</sup>. He stated that all of the necessary documents have been filed on behalf of the Town, and he is awaiting the response from the ZBA Counsel. Concerning Waste Management litigation, Mr. DiFilippo stated there is nothing new, and stated that Judge Michalek requires litigants to order the transcript of the Judge's Order, and that they are now arguing over the language of that Order. He stated that one portion of that has been appealed, and he stated he fully that the balance will be appealed, and enjoined with the previous part. Mr. DiFilippo stated that on January 14, 2008, the appeal of Judge Dillon's dismissal of the

Concerned Citizens' lawsuit challenging the Town's Zoning Ordinance will be heard at 10:00 AM in front of the Appellate Division in Rochester. Concerning the landfill expansion case, Mr. DiFilippo stated that the Concerned Citizens have until the end of January to perfect the appeal. The Attorney stated that he has been asked to review a number of agreements, and stated he has done so and will comment at the appropriate time. He stated he was also asked to research the law regarding Councilman Uhteg's membership and position as an officer on the Board of Directors of the Fire Company, as well as sitting on the Town Board. Mr. DiFilippo stated this does not constitute a conflict and there is no problem with him serving in these capacities. He stated that he has advised Mr. Uhteg, however, that it might be best for him to abstain when the Fire contract comes up. Attorney DiFilippo stated that there were other routine matters, and Supervisor Balus asked him to report on the \$1,500.00 expenditure made by the Planning Board. Attorney DiFilippo stated he has contacted Darren Farthing in Chairman Miller's absence, reviewed those documents, and the sections of the Town Law cited in the report, and his advice is that the Town Board needs to pay that bill. He pointed out that in the new proposed Procurement Policy, the expenditure would not be allowed since it would need Town Board approval, but in the present Procurement Policy, the sections of the Town Law do allow what was done. Mr. DiFilippo stated the only remaining question is if the Town has received a Clark-Patterson report. The Supervisor then asked if the Town Board could have the report, and was told by Mr. Farthing that the report was written for the Planning Board and not the Town Board, and would be available when it is available. The Supervisor stated that it was lack of communication, and when she had asked if the matter had been discussed by the Planning Board, was told yes, but the minutes did not reflect that, and she knew nothing about it. She stated it was her responsibility to ask about a voucher when she is not sure what it is. Mr. Miller stated that the Planning Board approached the Town Board by letter for three consecutive months for input on the Consultant fee, and when they received no response, they followed Town Law and proceeded hiring a consultant under their contractual budget. The Supervisor stated that we are all on the same team, and just need some better communication. Mr. Farthing stated that the Planning Board meets on the 1<sup>st</sup> & 3<sup>rd</sup> Wednesdays of each month, and they can be approached to see what is going on. The Supervisor stated that we should let what happened in 2007 stay in 2007, and should start 2008 out with better communications and new attitudes. She stated that it is the Attorney's recommendation that the Clark-Patterson voucher for Consulting engineer service be paid, and on a motion by Balus, seconded by Uhteg, the Board voted to include the Clark-Patterson bill for consulting fees in the amount of \$1,500.00 on tonight's Warrant #1 for payment. Carried, 4 ayes, 1 absent, 0 noes.

The Town Clerk read her financial report for the month of December 2007, and has also submitted the Town Clerk's annual report for 2007. The CEO's written report for December 2007 has also been submitted and is on file.

Highway Superintendent Walter Baker was on hand to give a report of Highway Department business. He stated that December was a very busy month, and the cost of diesel fuel has gone up to \$3.00 per gallon. He stated there is a bill in the Highway Abstract to Crabb Oil in the amount of \$4,600.00 for one month. Mr. Baker stated that there were some minor break downs, and the plow on the pick up truck was damaged and needed replacing. Mr. Baker stated he had been asked to plow the park for sledding, and while there, he found that someone had broken into the men's bathroom, turned on the hot water and left it running. He stated that is what heats the floor, and if he hadn't caught it, the pipes in the floor would have frozen. He stated the temperature in the building was 35degrees. He stated that if anyone is using the Park on the weekends, they will need to see him for the key to the bathrooms, and stated they should keep in mind that the water is not suitable for drinking because the chlorinator is unhooked for the winter. The Highway Superintendent stated he has been notified by Cingular that, as of March 1<sup>st</sup>, they are doing away with analog phones, and he must get a new one. He asked the Board for permission to do so. Mr. Baker stated that he has his computer, which was the Town Clerk's computer, set up, but is not on line yet. The Supervisor told Mr. Baker if he needs any help getting set up to be on line, he may have access to Network Services, and Peggy can help him out. She also stated he does not need permission from the Board to expend funds up to \$250.00 because he is a department head. Mr. Baker stated he does need a desk for the computer, and he stated he understands the Supervisor's old desk is available and upstairs. He was told he may have that desk.

The Planning Board has submitted the minutes of its December 5, 2007 meeting, and there were no ZBA minutes. Those minutes were received and filed on a motion by Phelps, seconded by Bean, and carried, 4 ayes, 1 absent, 0 noes.

After review by the Board members, on a motion by Bean, seconded by Phelps, General Fund Warrant #1, including vouchers #1 through #33, and totaling \$50,930.48; and Highway Fund Abstract #1 including vouchers #1 through #6, and totaling \$25,059.12, were approved for payment, carried, 4 ayes, 1 absent, 0 noes.

Supervisor Balus stated that one of the findings in the recent Audit Report was the Board's negligence in the adoption of a yearly Procurement Policy. She stated she has drafted, revised, and submitted one for review. She stated that at the 2007 End of the Year meeting, the Board discussed lowering the proposed amount for department heads to expend without Board approval from \$750.00 to \$500.00. Supervisor Balus suggested that the amount be set at \$600.00. Councilmen Bean felt it should be \$500.00, and Councilman Phelps agreed, stating that if it is found that \$500.00 is too low, it could be raised at a later date. Councilman Bean also felt that only Town employees should be authorized to purchase on a credit card or an account. The Procurement Policy will be rewritten to reflect those changes, and on a motion by Phelps, seconded by Bean, the Procurement Policy, including the agreed upon changes, was adopted. Carried, 4 ayes, 1 absent, 0 noes.

The Supervisor stated that the Board has considered and planned for computer upgrade in the 2008 Budget, and a quote was submitted for the purchase of a Dell PowerEdge 2900 File Server from Network Services at a cost of \$3678, which is actually \$678.00 more than was budgeted for. Also, Ed McCarthy has submitted a quote for cabling in the amount of approximately \$1500.00. She stated there will also be a lockable cabinet, built by Chuck Tobin, to will secure the file server, router and computer system controls, at a total estimated cost for the entire set-up of \$5,500.00. The Supervisor explained that a file server is much more secure than the current system, but a policy regarding the back-up tapes needs to be written, and she suggested that she and Councilman Bean could perhaps write up a policy. The following resolution, to be known as Resolution #2 of 2008, was then introduced by Uhteg, seconded by Phelps:

## **RESOLUTION #2 – 2008**

**RESOLVED**, the Sardinia Town Board hereby approves the expenditure of funds for a Dell PowerEdge 2900 File Server from Network Services at a cost of \$3,678.00, new cabling to be done by Ed McCarthy for approximately \$1,500.00, and a lockable cabinet to be built by Charles Tobin, with the entire cost not to exceed \$5,500.00 for the entire set-up.

Upon roll call vote: Bean, aye, Mumbach, absent, Phelps, aye, Uhteg, aye, Balus, aye. So Resolved.

The Supervisor stated that TVGA Consultants has submitted an agreement for On-Call Professional Engineering Services, as discussed at the last meeting. She explained that this would expedite the process for any project that needed such services. She stated that rather than having to hire an engineering firm each time, all that would be needed would be a Task Order approved by the Board. Supervisor Balus stated that there is also a free grant writing service provided with the Agreement, which could also be used by the Fire Company, Town Churches, etc. Councilman Phelps asked if this type of service needed to be bid on, and was the Supervisor explained that because it is a professional service, bidding is not necessary. She also explained that the Attorney has reviewed the agreement, and Mr. DiFilippo stated that there is some language he would like to see cleaned up, and as an example, stated there is a fee of \$500.00 for late payment of a voucher. He stated he would like some of these clarified, but sees no problem with the basic concept. Councilman Uhteg asked if they will cover all aspects of anything the Town would want to do, and was told yes. He also asked if it is a long term contract and if they sub-contract, and Attorney DiFilippo stated it is a one year term, and the Supervisor stated they do sub-contract. She stated we have been very happy with their services. The following resolution, to be known as Resolution #3 of 2008, was then moved for adoption by Phelps, seconded by Bean:

### **RESOLUTION #3 – 2008**

**RESOLVED**, the Sardinia Town Board, upon the approval of the Attorney for the Town, hereby enters into agreement with TVGA Consultants for On-Call Professional Engineering Services.

Upon roll call vote: Bean, aye, Mumbach, absent, Phelps, aye, Uhteg, aye, Balus, aye. So Resolved, 4 ayes, 1 absent, 0 noes.

Supervisor Balus stated that she has been without an accountant for a couple of years. She stated she has provided a copy of a short agreement with C.P.A Paul L. Luderman, whose rates are \$110.00 per hour for accounting services, and \$45 per hour for staff support. She stated that what she likes about this agreement is that in the past, we have guaranteed \$6,000.00 per year for accounting services, and doesn't think we got that service, and this way, we will only pay for what we need. The Supervisor stated that her secretary is a very good bookkeeper, but with the AUD coming up, they are in need of an accountant. The following resolution, to be known as Resolution #4 of 2008 was then moved for adoption by Phelps, seconded by Uhteg:

### **RESOLUTION #4 – 2008**

**RESOLVED**, the Sardinia Town Board hereby appoints Paul L. Luderman, CPA, to perform accounting services to the Town at the hourly rate of \$110.00, and an hourly rate of \$45.00 for staff support.

Upon roll call vote: Bean, aye, Mumbach, absent, Phelps, aye, Uhteg, aye, Balus, aye. So Resolved, 4 ayes, 1 absent, 0 noes.

Supervisory Balus stated that Town Law Section 123 requires that or before Jan 20<sup>th</sup>, it is the responsibility of the Town Board to audit each town officer and employee who has received or disbursed monies in the previous fiscal year. The Board must set a time to review before Jan 20<sup>th</sup>. She stated that in the past, each officer has shown the Board their books, explained how they do things, and explained their policies and procedures. She then asked what would be convenient for everyone. After discussion, it was decided that such audit would be conducted on Thursday January 17<sup>th</sup> at 2:00 PM. Attorney DiFilippo stated that it was his opinion that the meeting should be advertised. The Clerk stated she will do so.

Supervisor Balus stated that at the 2007 End of the Year meeting, the Highway vouchers had been missing, and a motion had been made to pay the Highway amount not to exceed \$4,700.00. The Clerk explained that she thought the amount of the last voucher had been \$2,300.00, and it had actually been \$2,700.00, so the Board now needs to pass a resolution increasing the amount from \$4,700.00 to \$5,200.00. Therefore, the following resolution, to be known as Resolution #5 of 2008 was introduced by Phelps, seconded by Bean;

### **RESOLUTION #5 – 2008**

**RESOLVED**, the Sardinia Town hereby agrees to pay the bills in Highway Abstract #12 (continued) presented at the December 27, 2007 meeting, with the stipulation that the bills do not exceed \$5,200.00.

Upon roll call vote: Bean, aye, Mumbach, absent, Phelps, aye, Uhteg, aye, Balus, aye. So Resolved, 4 ayes, 1 absent, 0 noes.

Supervisor Balus stated that a request has been made by David and Amber Danielson, parents of Sidney Danielson, that Sidney be allowed to use the gym on Friday afternoons for 1 or 2 hours. She explained that Sidney is home schooled and needs to complete his physical education requirements. On a motion by Uhteg, seconded by Phelps, the Danielsons were given permission to use the Town Hall/Community Center gym on Friday afternoons. Carried, 4 ayes, 1 absent, 0 noes.

The Supervisor stated that Thelma Hornberger, the Town Assessor, is requesting permission to travel to Albany for

the annual New York State Assessor's Association's Legislative Action Day on January 28<sup>th</sup> & 29<sup>th</sup>, which will include an overnight stay. Supervisor Balus noted that the cost will be \$232.00. On a motion by Bean, seconded by Phelps, the Board authorized the Assessor to go to Legislative Action Day, at a cost to the Town of \$232.00. Carried, 4 ayes, 1 absent, 0 noes.

Supervisor Balus stated, and Board members agreed, that there was nothing to discuss concerning the Old Town Hall.

Under Privilege of the Floor, Virginia Domes stated that she was there to represent the Historical Society, and submitted a petition that they have been circulating asking that the Old Town Hall be fixed up and restored, because people miss the Old Town Hall. She stated that the Historical Society is trying to become incorporated and have applied for 501c3 tax exempt status, and would like to work with the Town Board toward restoring the building.

Gene Parzych stated that concerning the Procurement Policy, he suggested that a clause could be added concerning the cap of \$500.00 for expenditures, stating it be reviewed after 6 months, or whatever time the Board sets. He also asked if the new accountant was local. Supervisor Balus stated he is very well respected in his field, and is accessible, and is a CPA from Williamsville.

The Supervisor announced that the next scheduled meetings will be as follows:

The Regular Town board meeting will be held on Wednesday February 13, 2008 at 7:30 PM;  
The next Planning Board meetings will be held on Wednesday January 16<sup>th</sup> at 7:30 PM and on Wednesday February 6<sup>th</sup> at 7:30 PM.

The Supervisor also stated that the Recreation Department will be holding a Winter Carnival in the gym on Saturday February 2<sup>nd</sup> and stated that it is always a nice event. Councilman Phelps stated they are looking into having a petting zoo this year for the Carnival.

There being no further business to come before the Board, on a motion by Phelps, seconded by Bean, the meeting was adjourned at 8:45 PM. Carried, 4 ayes, 1 absent, 0 noes.

Respectfully Submitted,

Town Clerk