

### 3-12-2008 – REGULAR TOWN BOARD MEETING

Present:

Councilman Ann M. Bean  
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. 30 guests

The Sardinia Town Board held its regularly scheduled Board meeting for March on March 12, 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, and the Pledge to the Flag. She welcomed County Legislator Kathy Konst, who was on hand to speak to her constituents, and Legislator Konst stated that she is cautiously optimistic about the way the County is going. She stated it will take time, and invited everyone in attendance to take one of her newsletters from the back table as they leave. She thanked the Town for allowing her to speak.

The Town Clerk has submitted the minutes of the February 13 2008 Regular Town Board meeting, which were approved and filed on a motion by Phelps, seconded by Bean, and carried, 4 ayes, 0 noes.

The Supervisor's report included:

- Sheila Vrenna presented the Community Cause checks, stating that last month, the Community Cause was the Boy Scouts in the area, and then presented 3 separate checks, each in the amount of \$115.00. The checks went to Cub Scout Den #627, Boy Scout Troop #627, and Boy Scout Troop #628. She also announced that this month's Community Cause is the Oddfellows Lodge.
- Supervisor Balus stated she had met with the Historical Preservation and Sardinia Historical Society at the Old Town Hall for a walk through of the building and discussion of future possibilities as well as available funding.
- The Supervisor reported she has met with County Executive Chris Collins at UB, along with other Supervisors for a brainstorming session; future meetings to be held quarterly in an effort to enhance open dialogue and communication between the County Executive and Supervisors
- Supervisor Balus stated she met with and interviewed 2 CPA Firms to audit, as per the State Comptroller's Audit, the Town of Sardinia and also WM only regarding fees paid under the Host Municipal Agreement
- The Supervisor stated she has received an extension until May 1<sup>st</sup> to complete and submit the AUD

The Supervisor stated that items for discussion include:

- The Town has received from the State of NY, Unified Court System, 8<sup>th</sup> Judicial District, recommendations of the Security Assessment for the Town's court to review. She stated that she will make a copy of the report available to all Town Board members.
- Also, she stated that the County reports that the County website is under used by the Town of Sardinia, that matter was discussed, and the Town will attempt to use the site.
- The Supervisor stated that the Citizens Committee will be taking sign ups for those interested in helping with Earth Day planning and preparation, which will be held on April 27<sup>th</sup> and possibly April 26<sup>th</sup> also. To sign up, contact Jay Burney, Sheila Vrenna, or Jean Squelch. Waste Management may be holding their Hazardous Waste drop off day on April 26<sup>th</sup> as well, from 8 AM until noon.

The Board also discussed the bills from the attorneys for the ZBA. They have contacted Attorney DiFilippo concerning the fact that they have not received payment for their time. The Supervisor stated that she thinks the problem is that they are sending the bills to the Chairman of the ZBA, and he is not forwarding them on to the Town. She then asked Attorney DiFilippo if there would be a problem if we wait until the April 9<sup>th</sup> meeting to pay the \$16,877.00 voucher. He stated that he has the problem with some of the redactions, and he also cannot tell if they are paying tax on printing and such. The matter was discussed, and the Attorney stated he would prefer that the Board approve payment upon review, so that they cannot contend in court that they are being hamstrung by lack of payment. It was agreed that because it is all attorney/client privilege and review is therefore difficult, it was agreed, on a motion by Bean, seconded by Uhteg, to pay the Schroeder, Joseph and Associates bill in the amount of \$16,807.66. Upon roll call, Bean, aye, Phelps, aye, Uhteg, aye, Balus, aye. Carried, 4 ayes, 0 noes.

Supervisor Balus stated that the Board has received a letter from Deputy Supervisor Ronald Kenyon offering his services as Town Councilman to fill the vacancy created by the resignation of Matthew Mumbach. Councilman Uhteg stated he felt it was a generous offer and the people are entitled to a full Town Board. Supervisor Balus agreed that the people have a right to a full Board and would like to see the position filled. Councilman Phelps stated it is a hard decision but feels that Mr. Kenyon would be an asset to the Board. Councilman Bean stated she has no problem with Mr. Kenyon and he has done a good job when he has chaired meetings, but that there has been a lot that has gone on in the recent past few years. Supervisor Balus stated she will work forward, and feels there is a lot of work to be done, and it is a lot of work for 4 people to do. On a motion by Uhteg, seconded by Phelps, Roland L. Kenyon was appointed to fill the vacancy on the Town Board. Upon roll call vote, Bean, no, Phelps, aye, Uhteg, aye, Balus, aye. Carried, 3 ayes, 1 no.

Supervisor Balus stated she would like to schedule a Saturday work session at the Park sometime in April, to look over the shelters and decide which ones to work on once the staff is in place. On a motion by Phelps, seconded by Bean, a work session was scheduled for Saturday April 18, 2008 at 10 AM at the Genesee Rd. Park. Carried, 4 ayes, 0 noes.

Councilman Phelps gave a report on Youth Committee activity, stating that she and Councilman Bean had conducted interviews for the position of Rec Director, and had three great candidates to choose from. She stated that one candidate, Aaron Smith of Savage Rd., a student at Genesee College, had applied for the position, but on finding out what all it would entail, decided it wasn't exactly what he wanted, and applied for Pool Director position instead. Ms. Phelps stated that later in the agenda, the position of Rec Director will be acted upon, and stated that Jim Helmicki is the recommendation, and has been a gym teacher in Alden for the last 8 years. She stated she has also been in contact with John Anastasia from the City of Olean to get some ideas from the things they are doing in their recreation programs. Supervisor Balus thanked Councilmen Phelps and Bean for all their work on the recreation positions, and stated that she feels this year's park and pool program will be great. Councilman Bean stated she has spoken to Brian Burton from Arcade's recreation department, who was asking about the use of the Sardinia pool three days a week, for two hours a day, with pool staff from Arcade provided by them. She stated that Pioneer Central is not going to be open all summer this year due to re-construction work, and now those programs that normally use the school's pools will not be able to use them in 2008. She stated there will be no soccer program, no summer school, nothing to be held indoors or outdoors. Ms. Bean stated that the Town may be inundated with requests for use of the pool.

Supervisor Balus stated that the Veterans would like to kick off the summer with a concert at the new gazebo. She stated that the Veterans Band is being looked into. Councilman Uhteg and the Supervisor will be discussing with the Veterans, a regular concert schedule for the summer. The Clerk stated that she has received requests for the use of the gazebo, and suggested that Rules for usage of the gazebo, as well as a reservation fee, if they would like to charge one, should be discussed by the Legion.

Attorney for the Town Anthony DiFilippo, III, gave a report of legal issues affecting the Town. He stated that concerning the status of litigation, the ZBA's attorney and Gernatt's attorney made motions for dismissal of the Article 78 proceeding, and Justice Devlin then ruled in the Town's favor, denying that motion. That is scheduled on its merits on March 27<sup>th</sup>. Mr. DiFilippo reported that in the Waste Management Co-Gen plant matter, we are still awaiting Judge Michalek's signed order, but he anticipates that the Appeals will be perfected and it will end up in Rochester in the Appellate Division. The Attorney reported that in the Zoning Ordinance challenge, pending in front of Judge Dillon, as he has previously reported the only portion of that case that was not dismissed by the Judge and is still pending is the portion concerning the Comprehensive Plan. He stated that discovery demands will be made, and a pre-trial conference has been scheduled for September 19, 2008, so it will be going on for a while. Mr. DiFilippo stated he has also worked on a written lease agreement between the Town and the Dog Control Officer to satisfy the State Department of Ag & Markets. He also reported that he has been in contact with CEO Marv Zielonka concerning the Unsafe Building law matter, and Mr. Zielonka has sent a letter to the property owner. The matter will be discussed later in the agenda, but Mr. DiFilippo stated he is recommending to the CEO to move forward on the matter, since it has been three years. Attorney DiFilippo stated that Darren Farthing of the Planning Board has given him a copy of the Planning Board's report concerning a legal matter between the Best Vision plaza and the Tri-County Business Park owner. Mr. Farthing has stated that it is nothing pressing, and can wait until next month. The Supervisor asked Mr. DiFilippo what he would recommend. The issue was then discussed, and it stems from a retention pond for run-off from Best Vision Plaza, which was moved at the request of the State DOT from the front of the building to the rear of the building. Mr. Koch is contending that drainage water is now flooding his building. Mr. DiFilippo stated he had spoken to Mr. Koch's attorney about six months ago, and explained that the original site plan had the pond in the front. He stated that the Planning Board is correct in its assessment that Best Vision needs to now come before the Planning Board with an amended Site Plan for review, with a new engineered plan. Mr. DiFilippo states that the Planning Board feels he could send a letter to the parties. He stated he has no file on the matter, and if they send him the information, he could send a letter stating that Best Vision needs to amend its site plan. The Supervisor stated that she hasn't seen the CEO at a meeting in a long time, and asked the other Board members their thoughts on asking him to attend some meetings to answer some questions. Councilman Phelps stated they could ask him to come to next month's meeting and ask him what is going on in Chaffee. That concluded the legal report.

The Town Clerk gave her financial report for the month of February 2008.

Highway Superintendent Walter Baker gave a report of his department's activities. He stated that February was a busy month, and he has had some break downs, and therefore, some very large repair bills are included in tonight's bills. Mr. Baker stated that over 3,000 tons of sand and salt have been used so far this winter, and he also gave fuel log figures, which he stated are very large, having used over 1250 gallons of diesel fuel and 450 gallons of gasoline. Concerning the Park, Mr. Baker asked if the Board has an anticipated start up date in mind, and stated that he needs at least 2 or 3 weeks to get the water turned on and the chlorination system going in order to get a good residual reading. Supervisor Balus stated that as far as the new Recreation Director position, since it is a new position, she asked that Mr. Baker continue doing what he always does, and they will catch up with him. She stated that next year may be different, but for now, they are trying to help him out. Mr. Baker asked if the pool permit cost was included on the Warrant for payment for approval this evening, and was told that it was. The Highway Superintendent also stated that bromine needs to be purchased for the summer, and stated he would get prices. Mr. Baker asked if the Board wants to proceed with a trash pick up again this year, was told yes, and stated he would like to schedule it for April 28<sup>th</sup>, same deal as last year, with use of Waste Management's compactor. Mr. Baker stated that Waste Management will be holding its Household Hazardous Waste Drop-off Day the week end before that. That concluded Mr. Baker's report. Councilman Phelps read a letter from Daniel Plewa of 13509 Allen Rd. asking that the speed limit on Allen Rd. be lowered. He states it is currently 40 mph, which is only 5 mph less than Rt. 16. Mr. Baker stated that the rest of the streets in the Hamlet of Chaffee are 35 mph. The Board agreed that the speed limit should be lowered to 35 mph, and upon discussion, felt the speed zone should extend ½ mile west from Rt. 16 to the Sam Feraldi residence on Allen Rd. The following resolution, to be known as Resolution #12 of 2008, was then introduced by Phelps, seconded by Uhteg:

**RESOLUTION #12 - 2008**

**RESOLVED**, the Sardinia Town Board hereby requests a TE-9a Study be done on Allen Rd, a County Highway owned and maintained by Erie County, to lower the maximum speed on a section of that Highway, west from State Rt. 16 for a distance of ½ mile, to a maximum of 35 m.p.h.

Upon roll call vote, Bean, aye, Phelps, aye, Uhteg, aye, Balus, aye. Resolved, 4 ayes, 0 noes.

The Planning Board has submitted the minutes of their January 16, 2008 minutes, which were received and filed on a motion by Uhteg, seconded by Bean, and carried, 4 ayes, 0 noes.

After review by the Board members, on a motion by Bean, seconded by Phelps, General Fund Warrant #3 including vouchers #109 through #156, and totaling \$159,346.67; and Highway Fund Abstract #3 including vouchers #25 through #38, and totaling \$16,964.08, were approved for payment, carried, 4 ayes, 0 noes. Councilman Bean asked which budget line the payment for the Supervisor's accounting software should come from, and after discussion, it was decided to review and decide at the next meeting.

Under Privilege of the Floor, Chaffee resident and farmer Gerald George spoke to the Board concerning the fact that most farmers in the Town have had their agricultural exemptions lowered, and he has spoken to the Assessor about it, who told him it was a "glitch" in the old program. The Town Clerk stated that the Assessor Had explained to her that the new New York State computer program requires the break down between types of land, as mapped out by Erie County soil and water, such as woodland, scrubland, pasture land, and prime tillable land, and each have different rates of exemption. She stated that the Assessor had explained to her that previously, the exemptions were all given at the same rate, which was incorrect. The Supervisor stated she will look into the matter tomorrow, and it is just unacceptable. She stated she would get back to him on the matter.

In Unfinished Business, Supervisor Balus stated that Councilmen Phelps and Bean have interviewed applicants for the position of Recreation/Parks Director, and are recommending James Helmicki for the position to start immediately at the rate of \$13.00 or \$14.00 per hour. The Supervisor stated that she would be in favor of paying Mr. Helmicki the \$14.00 per hour amount. The following resolution, to be known as Resolution #13 of 2008 was then introduced by Supervisor Balus, seconded by Councilman Phelps:

#### **RESOLUTION #13 – 2008**

**RESOLVED**, the Sardinia Town Board hereby hires James Helmicki for the position of Recreation/Parks Director at a rate of \$14.00 per hour, to start immediately.

Upon roll call vote, Bean, aye, Phelps, aye, Uhteg, aye, Balus, aye. Resolved, 4 ayes, 0 noes.

The Supervisor stated that the Town's engineering firm TVGA has requested that the Board select an individual to serve as Lead Person for the CDBG sidewalk project. She stated that Councilman Uhteg has offered to be that person, and he stated that if he has questions, he will refer them to the Highway Superintendent. On a motion by Bean, seconded by Phelps, Councilman Norman Uhteg was designated by the Town Board to act as Lead Person for the CDBG sidewalk project. Carried, 4 ayes, 0 noes.

Concerning the feasibility study of the Old Town Hall, Supervisor Balus stated that she has spoken to the Town's insurance agent about the liability problems with the building, and was told by him that the Town is fully covered, including the Old Town Hall, and that the Board should go ahead and accept the study. A motion was made by Balus, seconded by Uhteg, to receive and file the Old Town Hall feasibility study report. Carried, 4 ayes, 0 noes.

Supervisor Balus stated that she would like the Town Board to adopt a policy that states all minutes be done in electronic/digital form in an attempt to streamline fulfillment of FOIL requests. She stated that she would be asking all other Board and committees to set forth the same policy. The issue was discussed, and the minutes of the recent Zoning Board of Appeals variance hearings concerning Gernatt Asphalt was brought up. Those minutes were never made available in digital format. Councilman Uhteg suggested that Attorney DiFilippo write her a letter asking for any tapes, etc. Concerning the adoption of a policy concerning preparation of minutes, the following resolution, to be known as Resolution #14 of 2008, was introduced by Balus, seconded by Bean:

#### **RESOLUTION #14 – 2008**

**RESOLVED**, the Sardinia Town Board hereby adopts the policy that all Town Board meeting minutes be done in electronic/digital format, and urges all other Town of Sardinia Boards and Committees to adopt a similar policy for their minutes.

Upon roll call vote, Bean, aye, Phelps, aye, Uhteg, aye, Balus, aye. Resolved, 4 ayes, 0 noes.

Supervisor Balus stated that Code Enforcement Officer Marv Zielonka has received correspondence from Douglas Kimball, owner of the fire damaged house located at 11569 Olean Road, Chaffee regarding the matter of Local Law #2 of 2007, the Unsafe Building Code. Mr. Kimball's letter stating that he is still dealing with his insurance company was then read by the Supervisor. After brief discussion, the following resolution, to be known as Resolution #15 of 2008, was introduced by Phelps, seconded by Bean:

#### **RESOLUTION #15 – 2008**

**RESOLVED**, the Sardinia Town Board hereby directs Code Enforcement Officer Marvin Zielonka and the Attorney for the Town Anthony DiFilippo, III to move forward and proceed with following the provisions of the Unsafe Buildings Law as it pertains to 11569 Olean Road.

Upon roll call vote, Bean, aye, Phelps, aye, Uhteg, aye, Balus, aye. Resolved, 4 ayes, 0 noes.

The Supervisor informed that the Chaffee-Sardinia Great Bambinos Youth Baseball League has submitted a request for funds in the amount of \$1,250.00, as well as an agreement to field 5 teams ranging from five to fifteen years old. Funds were set aside in the 2008 Budget in anticipation of this request. Therefore, the following resolution, to be known as Resolution #16 of 2008 was introduced by Phelps, seconded by Uhteg:

**RESOLUTION #16 – 2008**

**RESOLVED**, the Sardinia Town Board hereby grants the request of the Chaffee-Sardinia Great Bambinos Youths Baseball League, and authorizes the payment in the amount of \$1,250.00 to that organization.

Upon roll call vote, Bean, aye, Phelps, aye, Uhteg, aye, Balus, aye. Resolved, 4 ayes, 0 noes.

Supervisor Balus stated that the Town Historian and Town Historical Society have asked that the Town Board adopt a resolution to support an effort by them to have the Old Town Hall added to the National Registry of Historic Places, and support their efforts to then proceed with a plan to fully restore the building. The Supervisor noted that they have assured this will be with no financial obligation to the Town. The following resolution, to be known as Resolution #17 of 2008 was then moved for adoption by Phelps, seconded by Uhteg:

**RESOLUTION #17 - 2008**

**WHEREAS** the Sardinia Town Board recognizes the historical significance of the Sardinia Old Town Hall and acknowledges that it has been both an important spiritual, as well as social center of our community for almost 180 years. We recognize also, that it is an architecturally beautiful old building that is worthy of saving for future generations to continue to use and enjoy,

**THEREFORE, BE IT RESOLVED**, the Sardinia Town Board hereby resolves to fully support the efforts of the Sardinia Town Historian and the Sardinia Historical Society to have the Sardinia Old Town Hall added to the National Registry of Historic Places, and proceed with a plan to fully restore it in a way that both honors its history, and allows for its continued use as a community center for which the whole town can once again be proud.

Upon roll call vote, Bean, aye, Phelps, aye, Uhteg, aye, Balus, aye. Resolved, 4 ayes, 0 noes.

The Supervisor stated that the Chaffee-Sardinia Seniors have requested a deposit of \$300.00 payable to Snyder Tours, Inc. for a trip to Hamilton, Ontario which includes lunch and a show, the Geritol Follies Variety Show. The following resolution, to be known as Resolution #18 of 2008 was then introduced by Phelps, seconded by Uhteg:

**RESOLUTION #18 – 2008**

**RESOLVED**, the Sardinia Town Board hereby approves payment of \$300.00, payable to Snyder Tours, Inc., as a deposit for a Chaffee-Sardinia Seniors trip to Hamilton, Ontario which includes lunch and a show, the Geritol Follies Variety Show, with the cost to the Town for the entire trip not to exceed \$4,000.00.

Upon roll call vote, Bean, aye, Phelps, aye, Uhteg, aye, Balus, aye. Resolved, 4 ayes, 0 noes.

Supervisor Balus stated that the Chairman of the Planning Board has submitted a voucher for two meetings in Buffalo, asking for \$48.80 for each meeting, plus mileage. She stated that there is nothing down in any policy for payment of a person's time for an outside meeting, only for reimbursable meals and mileage, etc. The Board discussed the matter, and agreed that the time is not normally paid for, and he needs to come to the Board

During the question period:

Gene Parzych stated that Ron Kenyon has filled in for two meetings, and they were most amicable, and he feels that things are settling down.

Virginia Domes informed that the Historical Society will be having a membership drive meeting on March 25<sup>th</sup> at the Old Town Hall.

John Schiener stated he had raised a question concerning the shared engineering between the Tri-County Business Park and the Town, and wondered if there had been any answers yet. The Supervisor stated she had spoken to Rick Henry tonight before the meeting and she and Councilman Uhteg will be meeting with him, and will know more then.

Jim Witter asked if the policy concerning electronic or digital minutes included the Planning Board and Zoning Board of Appeals. The Supervisor stated it did not, but that the Board is hoping they will follow suit. Attorney DiFilippo explained that those Boards all have the authority to set their own policy. Mr. Witter stated that all of the minutes are currently done on computer. The Supervisor stated she is confident that they will all follow suit.

The Supervisor made the following reminders and announcements”

The Next scheduled meetings will be as follows:

Regular Town Board Meeting- Wednesday, April 9<sup>th</sup> 7:30 PM

Tim Callahan from the Erie Co. Comptrollers Office will be here at 6:30 PM for a "Town Hall Meeting"

Planning Board meetings:

Wednesday March 19<sup>th</sup> @ 7:30 PM

Wednesday April 2<sup>nd</sup> @ 7:30 PM

Other Information:

Informational Meeting with Erie Co. Dept. of Health regarding Chaffee

Water Works, March 13<sup>th</sup>, Sardinia Comm. Center @ 7:30 PM

Agricultural District Review, March 19<sup>th</sup>, Comm. Center @ 7:30 PM

Kiwanis Annual Pancake Breakfast to benefit the C-S Fire Company,

March 30<sup>th</sup>, @ Fire Hall, 8:00 AM - 1:00 PM

NYS DOT, Informational Public Meeting regarding Catt.Creek stream

realignment, April 2<sup>nd</sup>, Comm. Center @ 6:30 PM

Earth Day, April 27<sup>th</sup>

Kiwanis Annual Easter egg Hunt Saturday march 22 at 1:00 PM at the Genesee Rd, Park

Historical Society Membership Drive meeting at the Old Town Hall March 25<sup>th</sup> at 7:00 PM

There being no further business to come before the Board, on a motion by Uhteg, seconded by Bean, the meeting was adjourned at 9:25 PM. Carried, 4 ayes, 0 noes.

Respectfully Submitted,

Town Clerk

