

5-14-2008 – REGULAR TOWN BOARD MEETING

Present:

Councilman Ann M. Bean
Councilman Ronald L. Kenyon
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. 40 guests

The Sardinia Town Board held its regularly scheduled Board meeting for May on May 14, 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 that the families of Ida Snow and Jim Gill, who passed away this month, as well as our servicemen and women fighting for our freedoms, be remembered. She then led the Pledge to the Flag.

The Town Clerk has submitted the minutes of the April 9, 2008 regular Town Board meeting, and the minutes of the April 19, 2008 Work Session held at the Genesee Rd. Park. These minutes were approved and filed on a motion by Phelps, seconded by Bean, and carried, 5 ayes, 0 noes. The Supervisor noted that the minutes of the Work Session were correct, but that she had misspoke concerning the hours that could be worked by Caretaker Dennis Dick. She stated that he is part time and can only work a total of 19.5 hours each week, and asked that this correction be noted for the record.

Judy Tobin then presented the Community Cause check in the amount of \$246.00 to Coach Mathew Roblee, and player Jordan Roblee, representing the Chaffee-Sardinia Youth Baseball League. She stated that this month's Community Cause is SASI's High Hurdles riding program.

Rick Henry of Clark Patterson was on hand to give a presentation concerning the preliminary engineering report on the proposed water district along the Rt. 16 corridor from Huthchinson Rd. to Genesee Rd. and explained that the proposed Water District would run 8000'. Mr. Henry distributed copies of the preliminary report, which showed that the water will come from either the Town of Yorkshire, which would be the shortest route, or from the Village of Arcade, to be run from their sewage treatment center to East Schutt Rd., or from the Chaffee Water Works. He then outlined the pros and cons of each of those scenarios, including the various water pressure issues, water line sizes, etc. Mr. Henry stated that the cost would be approximately \$700 to \$800 per unit for the 118 units in the proposed district. He stated that to proceed, the Planning Board and the Town Board should review the plan, then hold an informational meeting to ascertain if there is interest from the public in forming the district. If there is, then the Town would have to agree on a provider, pursue funding, and get approval from the State Comptroller's office to form a water district. Mr. Henry stated that the formation of a Special District is based solely on if the people of the proposed District want it. He stated that the Town Board can decide to go forward and put the matter on the ballot as a Permissive Referendum for those in the district, or the people in the district can sign a petition, with 51% approval required. He stated that each person has the same vote; there is no weighted voting for businesses or large land owners. He stated it is a very Democratic process. Councilman Uhteg asked why the district would only reach as far as Genesee Rd., and Mr. Henry replied that it was the logical stopping point. Mr. Uhteg asked if perhaps Chaffee should be included, creating one large District, and stated that it should be discussed before the Chaffee Water Company work starts. Councilman Bean asked what the timetable was and how far in the future a District could be formed. Mr. Henry stated that it would depend on how long it would take to decide #1 - if the people want it; and #2 - where water would come from. Supervisor Balus stated she plans on reaching out to the Town of Yorkshire. Councilman Kenyon stated that he feels this is a good starting point, but feels it should extend east, up East Schutt Rd. and west, up Rt. 39, where there are huge fire loads. Mr. Henry agreed and stated that as to where the water could come from, Yorkshire is the quick solution, but Arcade is the better long term solution. The Supervisor stated she would reach out, since if there is no water source, there is no reason to further pursue a water district.

The Supervisor then gave a report of her activities for the month of April 2008, including:

- Submission of a balanced AUD on May 1st
- Initiation of a dialogue with Attorneys DiFilippo and Seeger in regard to the "Order to Show Cause" to cease mining and several conversations about the Article 78 Lawsuit against Gernatt Gravel
- Met with TVGA regarding the possible postpone of the sidewalk project and the deferment of the \$90,000 CDBG Grant funds for the '08 - '09 year. She stated that TVGA will need another \$8,000.00, in addition to what we have already paid them, to finish, because the sidewalk is not going to happen this year. She stated it is almost certain that the Chaffee Water project will not happen this year and CDBG is agreeable to deferring the grant until next year in order for the Chaffee residents to incur the least amount of cost by doing both projects at the same time. Supervisor Balus felt that it was a "no brainer" to agree to defer the sidewalk project until next year, and stated that it did not need formal Board action this evening, and she will include it on the agenda for the June meeting.
- Participation in a successful "Clean-up Saturday" and Earth Day on Sunday, April 27th
- Drafting of specs for the park shelters project with Councilman Uhteg after researching with contractors the necessary repairs and renovation options for project
- Researched past donations to the town on behalf of the Veteran's for their Memorial
- The Supervisor thanked the following: Louie Domes for the donation of the official Christmas Tree and Charlie and John Rosier for their help in digging up and planting the tree, Larry and Travis Petri of

Mountainview Builders for their help and use of tractors and dump truck to remove debris in front of the home where the majority of the Earth Day clean up was done. She also thanked Tim Stanford, Lori Fearon, Laurie Smith, Doug Domster, Norm Uhteg, Dave Malachowski, Jim and Sheila Vrenna, and Chuck Tobin for their participation in the Earth Day clean up event.

- The Supervisor stated that Jim Wiedemann has just informed her that, regarding megahertz system for fire and dispatch communications, there will be a possible \$140,000.00 charge to Springville Control and a possible \$40,000.00 charge to the Firemen's trucks. She asked if anyone would be willing to attend the meeting of the Springville Control Advisory Board. She stated that some of the other Towns are going to get together and see if there may be grant money available. Councilman Uhteg stated he would attend the meeting and keep the Board up to date.
- Supervisor Balus stated she would not be around for the month of June, and stated that Deputy Supervisor Kenyon would be sitting in for her at the next meeting. She stated that County executive Chris Collins has asked that the Towns pass a motion allowing the County to move forward with a study to determine if a County Assessment unit would save the taxpayers money. She stated that Deputy Supervisor Kenyon will present a resolution to that effect at the next meeting.
- The Supervisor stated that Planning Board Chairman Dan Miller has submitted another bill for two meetings he had outside the building, at \$48.80 per meeting. She stated that payments for such meetings have never been allowed, and these two meetings were never authorized by the Board. She then suggested that the best way to handle the matter would be to make a motion now to authorize the payment. Mr. Miller explained to the Board that the meetings were with the Steven Duleski, Region 9 Director of the DEC, concerning the DEIS for Tri-County Business Park, where the document was gone over page by page. Mr. Miller stated that Mr. Duleski would not come out here. The Supervisor stated that when you take the Chairman position, you must expect that, and stated that communication when possible would be beneficial. On a motion by Kenyon, seconded by Phelps, Mr. Miller will be paid for those meetings, but the Board will not consider this to be setting a precedent. Carried, 5 ayes, 0 noes.
- Supervisor Balus stated she has received notification concerning the Senior Flu clinic and Health Fair, which used to be organized by former Councilman Carla Fuller. She asked the Board their feelings on continuing the event, and all agreed it is something that should continue. It was discussed, and Councilman Bean stated she would work on it, and Councilman Uhteg and Supervisor Balus stated they would help.
- Supervisor Balus stated that ZBA Chairman Mike Hannon has contacted stating that the ZBA is in need of a secretary. She stated that there currently is no one in the secretarial pool. The Supervisor stated that Mr. Hannon stated he has them take pictures of sites, as well as performing other duties. It was noted that the Planning Board is currently having a member do the secretarial duties. Attorney DiFilippo stated that he has suggested that court stenographer be hired when there is an important hearing scheduled, and stated he feels it is critical that they have a secretary. On a motion by Uhteg, seconded by Bean, Supervisor Balus was authorized to place an ad for a ZBA secretary and requesting resumes. Carried, 5 ayes, 0 noes. The Supervisor stated that Mr. Hannon also advised that only 3 of the five ZBA members have received the required training, and is asking how the Town Board wishes to handle the matter. Attorney DiFilippo stated it is understating that if the members do not have the proper certification, they cannot vote. Councilman Bean stated she was told that one of those members has since received the training. She stated she has also been told that it is up to the Town to decide if they want to make the training a requirement. Mr. DiFilippo stated that the Erie County Dept. of Environment and Planning could advise of what is required. Dan Miller stated there is another training session scheduled for July. Councilman Uhteg asked if an alternate member could fill in, and Mr. DiFilippo stated they could not vote without the training.
- Supervisor Balus asked Highway Superintendent Baker if his department had been able to make new picnic tables, and Mr. Baker replied that they haven't gotten to it yet, but it is on the list of things to do. Supervisor Balus stated that some of the old ones are not safe, and 10 to 15 new ones are needed each year.

In Committee reports:

Councilman Bean stated she has been in touch with the Erie County Health Dept. concerning water testing, and they have sent a list of parameters for testing drinking water, suggesting that testing for nitrates be added around farming areas, and testing for bacteria, due to septic systems. She stated the Town needs to contact a lab or labs and see what we can come up with for a protocol and prices. The Supervisor asked which direction the Board would like to go in, testing as in the Panamerican series, or the 15 to 20 well testing as was done in the past with grant money through Senator Volker's office. Councilman Uhteg stated he would like to see prices first, but likes the random, around town type of testing. The Supervisor stated that there was a problem with that type of testing, since they could give the data but they could not analyze it. She stated she will work with Councilman Bean on a testing program.

Councilman Bean also stated she has received an updated proposal for the outside lighting from DuBay Electric. She stated it is the exact same thing as last year, but at a slightly higher price. She asked if three quotes were needed, and it was decided to come up with specs and put out for bids. On a motion by Uhteg, seconded by Phelps, it was the Board's intent to properly light the Community Center, and therefore, Councilman Bean and others will come up with specs and advertise as soon as possible, with a reasonable amount of time, and have bids opened at the next meeting, if possible. Carried, 5 ayes, 0 noes.

Councilman Phelps gave the Youth report for the month, stating that she and Councilman Bean interviewed 20 applicants for lifeguards and staff, and have recommended 14 for positions. She stated they also have two applicants for next years Tiny Tots program, informing the Board that, unfortunately, Jennifer Bray will not be coming back next year due to pregnancy, leaving only Laura Marshall and Theresa Francis. Councilman Phelps stated that Tiny Tots graduation will be held on Saturday, June 7th at 1:00 PM. Councilman Bean stated that shade at the pool had been discussed during the April 19 Work Session, and one of the Youth Committee had suggested an off-set umbrella, but

that idea was nixed due to wind problems. The Supervisor suggested that specs be written up for the construction of some sort of shade at the pool.

Councilman Uhteg reported that the County has still not done a website for Sardinia due to staffing problems. He also stated that he has been in touch with NYSEG concerning the lighting district and has a copy of their layout. He stated that the Attorney for the Town will advise as to the procedure to create a lighting district during his report, and stated he feels it can be acted upon in the very near future. Mr. Uhteg stated that, concerning the bleachers at the ball diamond in the Genesee Rd. Park, some of the firemen have offered to replace the wood on the existing bleachers, stating that the steel structure is sound. He estimated that the cost of the wood would be about \$400.00 to \$450.00. On a motion by Balus, seconded by Phelps, the Board approved the purchase of replacement wood for use by the Firemen to re-build the bleachers at the Genesee Rd. Park, not to exceed \$700.00. Carried, 5 ayes, 0 noes. Councilman Uhteg stated that the cost for a section of new aluminum bleachers is roughly \$3,000.00. Supervisor Balus asked that he get prices for new bleachers for Manion Park and at Veteran's Memorial Park. Councilman Uhteg stated he has met with a contractor concerning the basketball courts at both parks, and the contractor stated they should both be completely dug up and reconstructed. Specs will be drawn up and the project will be put out for bids.

Councilman Kenyon stated that the extra keys for the Town Hall Community Center were obtained and are being issued to the Sheriff's personnel who need them. Concerning the upgrade to the phone system, the Supervisor stated she will get the name of the sales rep and get it to Mr. Kenyon. Councilman Kenyon also informed that it is his understaffing that, due to the problems with the 400 megahertz system, the cost to the Fire Company will be approximately \$59,000.00 for new radios. Mr. Kenyon also apologized to Councilman Phelps for not meeting with her, as agreed, concerning Manion Park, but he stated he has compiled a "wish list" for the park, and stated there are some safety issues, including the old sandbox. Councilman Phelps added that she has been there with her children and had people drive right through the area between the shelters and the playground equipment, where kids are playing. She stated there is nothing to block cars from driving anywhere in that park, and there are no signs. Highway Superintendent Baker was asked if putting up posts to block access by cars would be something his department could do, and he stated they could. The reconfiguration of the access in Manion Park was discussed. The Supervisor told the Councilmen to contact Dennis Dick or Doug Domster to do the work to handle the safety issues. She also stated that any needs or wants in the parks should be brought to the Board and then the necessary purchases can be made.

Attorney for the Town Anthony DiFilippo, III, gave the Board a report of legal issues concerning the Town. He stated that as to the status of litigation, the Board has received correspondence regarding the Discovery demand in the Concerned Citizens of Sardinia lawsuit against the Town, including the request for depositions of Town officials, for the one issue in zoning litigation. He stated he has answered that demand, and is awaiting a reply. Regarding the Waste Management Cogeneration plant litigation, he has now received the Order of the Judge, dated December of 2006, which will become part of the Appeal, and Mr. DiFilippo stated they can now perfect the Appeal. Mr. DiFilippo stated that, concerning the Gernatt litigation, he was summons this morning at 10 AM to meet with Judge Devlin's law clerk. He stated the Town filed the Article 78 Brief, they filed an answer, the Town replied with a 55 page Supplemental Affidavit and Legal Memorandum. The matter will now be put off until July 10th, and the Judge's Law Clerk agreed with the Town that it was encompassed in the record. Gernatt can now reply again. Mr. DiFilippo stated that, meanwhile, the Supervisor has notified him that it appears that Gernatt has starting working again on the Gebel-Thomas site, and asked him what the Town can do. He stated he has explained to her that he would rather not discuss legal strategy in an open meeting. Councilman Uhteg stated that on two mornings, they have started working at 5 AM. Mr. DiFilippo stated that he thinks that is a violation of their permit, and the DEC should be notified. He stated there have been other issues of which he has been made aware. The Supervisor stated she would be willing to call the DEC, and was told to call the Olean office. The Attorney stated that the only other litigation pending is regarding the Kimball burned out house, and he stated he had received a letter stating that the house had been demolished, which it has not been. He stated that the Town is going ahead with the case. Concerning the creation of a Street lighting District, Mr. DiFilippo stated that he did some basic legal research and stated that if all of the current residents want streetlights, and Mountainview Builders sign for the remaining lots and the Town gets the legal description of all of the properties, the Board can then adopt a resolution creating the district, a public hearing can then be held. The Attorney stated there are options including the Town could buy and install the lights, but would have to create a department to maintain them; and NYSEG owning and maintaining them, which Mr. DiFilippo stated he felt was the cleaner and neater option. He stated that it looks as if the annual cost would be \$1,800.00, which would be distributed amongst the owners. Mr. DiFilippo stated he would need to see an original petition, and it may need to be notarized. Councilman Uhteg stated the petition has the signatures of everyone who lives in the subdivision. Attorney DiFilippo stated that Councilman Uhteg should include the entire subdivision, even the lots that are still unsold, stating there is no sense putting in 8 or 9 and then having to extend the district. He suggested that Mr. Uhteg show it to Mountainview Builders and see if they will sign it.

The Town Clerk gave her financial report for the month of April 2008, and the Supervisor noted that the Code Enforcement Officer's report for April 2008 has also been submitted.

Highway Superintendent Walter J. Baker reported that his department has been working in the Parks. He stated they have taken down some trees, the water is now on and the chlorinator is up and working well. He stated they have all of the flags up and the trash pick up is done, with \$192.00 received from scrap metal. He thanked Waste Management for the use of the truck and driver. Mr. Baker reported that airbrake certification is now required for anyone driving the trucks, and he sent two of his men for the free training. The Superintendent stated that his department has also been doing ditching on Mehm and Hand Rd., and will be able to finish it up this week. Mr. Baker stated he has been approached to lower the speed limit on East Schutt Rd. to 35 mph. He stated that it is currently 55 mph, and stated he believes that because it is a Town road, he can just put up the necessary speed signs. Attorney DiFilippo stated that Board approval is needed to do so, but he will check to see if any other procedure is necessary. He stated that he needs a new mower, and has found one at a cost of \$4,500.00. The Highway Superintendent also stated he has ordered bromine for the pool, and the cost for a 50-lb. pail has risen from \$139.00 last year, to \$179.00 this year. He asked what date the Board would like to have the pool open, and Councilman Phelps stated that the Youth Committee would like to see June 28th as the opening day. Mr. Baker stated that a resident who has the Park booked for June 21st, has asked if it would be open by that date, and it was decided to try

and get the pool opened by June 21st, at least for the weekends. Councilman Phelps stated that swim lessons will start on July 7th. Highway Superintendent Baker stated that his men will be starting on the construction of picnic tables next week, and there should be enough tables for all of the shelters.

The Planning Board has submitted the minutes of its April 2, 2008, and April 16, 2008 meetings, which were received and filed on a motion by Phelps, seconded by Bean, and carried, 5 ayes, 0 noes.

After review by the Board, General Fund Warrant #5, including vouchers #201 through #265, totaling \$39,114.30; and Highway Fund Abstract #5, including vouchers #57 through #68, and totaling \$7,779.53, were approved for payment on a motion by Phelps, seconded by Bean, and carried, 5 ayes, 0 noes.

Under Privilege of the Floor:

Dave Kuntz of Sardinia stated he has spoken to County Legislator Robert Reynolds regarding the drop in the agricultural exemptions and feels it is a mistake, He stated he has checked with the Assessor and doesn't seem to get an answer he can understand. The Town Clerk asked him if he has tried the board of Assessment Review route, and he stated he has been told they do not review exemptions, only assessments. He stated it is an obvious mistake.

Town resident Nancy Farthing stated that there is a large area of blacktop just outside the back door of this building that is missing, and feels it is dangerous. The Highway Superintendent stated he will fix the hole.

Dave Malachowski of Sardinia thanked the Supervisor's secretary and the Clerk for researching and finding where the donations for the Veterans Memorial are. He stated that there will be a stone honoring all Veterans erected next to the gazebo with the money.

The Supervisor stated that interviews have been conducted for pool and recreation staff, and recommendations have been made for hiring of applicants. Therefore, the following resolution, to be known as Resolution #33 of 2008, was introduced by Kenyon, seconded by Uhteg:

RESOLUTION #33 - 2008

RESOLVED, as Councilmen Phelps and Bean conducted interviews on April 30th and May7th, and it is now their recommendation that the following staff be hired for the Summer Recreation Program, the Sardinia Town Board hereby approves the hiring of the following, at the listed hourly rates, effective immediately:

Nathan Smith- lifeguard	\$8.00
Cortney Hilts- lifeguard	\$8.00
Tyler Slomba- lifeguard	\$8.00
Kevin North- lifeguard	\$8.00
Aimee Lindner- lifeguard	\$8.00
Casie Neil- lifeguard	\$8.00
Diana Bockhahn- lifeguard	\$8.00
Jessie Nickerson- lifeguard	\$8.00
Meg DeMario- lifeguard	\$8.00
Lucianna Garlock- lifeguard	\$8.00
Michael Anna-lifeguard	\$8.00
Amanda Glasner- WSI	\$9.50
Laura Reisdorf- WSI	\$9.50
Sara Watkins- WSI	\$9.50
Michael Anna- Rec. attendant	\$7.36
Anthony Locke- Rec. attendant	\$7.36
Eric Crawford- Rec. attendant	\$7.36
Christina Hulton- Re. attendant	\$7.36

And, pending the obtaining of their lifeguard certifications:

Jenna Boza	\$8.00
Drioux Danielson	\$8.00

Upon roll call vote, Bean, aye, Kenyon, aye, Phelps, aye, Uhteg, aye, Balus, aye. So Resolved.

It was noted by Councilman Phelps that the younger first year guards will be given part time hours, and the older guards will be working full time, and there will also be 4 guards on for weekends. The Supervisor stated there will also be a lot of painting and other work to be done.

Supervisor Balus stated that Duane DeGolier, Sardinia's Dog Control Officer has requested approval to attend a Dog Control Seminar in Webster, N.Y. on June 3rd and 4th. The registration fee for the 2-day conference is \$50.00 and he has requested accommodations for one night.

The following resolution, to be known as Resolution #34 of 2008 was introduced by Phelps, seconded by Uhteg:

RESOLUTION #34 - 2008

RESOLVED, the Sardinia Town Board hereby authorizes Duane DeGolier, Sardinia's Dog Control Officer, to attend a Dog Control Seminar in Webster, N.Y. on June 3rd and 4th and authorizes payment of the registration fee for the conference in the amount of \$50.00, as well as accommodations for a one night stay and any reimbursable mileage and meals.

Upon roll call vote, Bean, aye, Kenyon, aye, Phelps, aye, Uhteg, aye, Balus, aye. So Resolved.

The Supervisor stated that an ad was put in the papers to bid out the re-roofing of most of the shelters in the Genesee Rd. Park, along with the old restrooms, some fascia work, aluminum drip, etc. She stated that at this time, the Board would open the bids, and if all is in order, the bid may be awarded this evening, based upon all forms being properly filled out and insurance in place, and upon review and approval of the Attorney. Councilman Uhteg then opened and read the bids, which were as follows:

Taylor Made Builders, Springville, NY

Building #1 – shingled	\$11,675.00	steel roof	\$9,825.00
Building #2 - shingled	\$5,265.00	steel roof	\$3,800.00
Building #3 – to straighten	\$2,100.00		
Building #4 – shingled	\$3,700.00	steel roof	\$2,300.00
Building #5 - shingled	\$3,550.00	steel roof	\$2,350.00

Hoffman Construction, Holland, NY

Entire Project \$22,000.00

John Hulton Construction

Entire Project \$31,500

The bids were discussed, and it was noted that the steel roof would not match the gazebo and the remaining buildings, was not part of the specs, and would not be considered. Also, the shingles would not be removed, but would be gone over with the steel roofs. The total of the Taylor Made Builders bid for the shingled buildings and straightening was \$26,290.00. Mr. Hoffman was on hand and was asked if he could start right away, and if he had a standard contract. The terms were discussed, and the Attorney will approve the documents before signature. The following resolution, to be known as Resolution #35 of 2008 was then introduced by Bean, seconded by Phelps:

RESOLUTION #35 - 2008

RESOLVED, the Sardinia Town Board hereby awards the bid for the roofing of the parks buildings to Hoffman Construction, with a low bid of \$22,000.00, pending approval of the Attorney for the Town and Councilman Uhteg; with second lowest bid by Taylor Made Builders with a bid of \$26,290.00, and third lowest bid by John Hulton Construction with a bid of \$31,500.00.

Carried, 5 ayes, 0 noes.

Denise Schiener asked Councilman Phelps if the pool would be open through Labor Day weekend, and Councilman Phelps stated she felt it could, especially since Labor Day is early this year.

Councilman Kenyon stated that there was a letter in the local newspaper that stated it may be a conflict of interest for him to serve on the Town Board, as well as to serve as with the Sheriff's Department. He stated that there were no facts to back this up, and that he takes the accusation very seriously. Mr. Kenyon then made a motion, seconded by Uhteg, to refer the question of conflict of interest to the Town's Ethics Committee and the Attorney for the Town. Carried, 5 ayes, 0 noes. Attorney DiFilippo stated that, off the top of his head, he did not feel that there was a conflict of interest.

Supervisor Balus then made the following announcements:

The Next meetings are scheduled as follows:

Regular Town Board Meeting - June 11th, 7:30 PM

Planning Board meetings:

May 21st @ 7:30 PM

June 4th @ 7:30 PM

Other Information:

- There will be a *Plant Sale* sponsored by the Sardinia Historical Society at the Old Town Hall on May 18th from noon to 4 PM and the Museum will be open
- The annual Memorial Day Service will be held at the Sardinia Cemetery at 8:00 AM on Monday May 26th, followed by the 3rd Annual "Volunteer's Appreciation Breakfast" for all Veterans, Firemen, and their families sponsored by the Town and the "Citizen's Committee"
- The Firemen's 60th Annual Carnival will be held on July 4, 5, and 6

There being no further business to come before the Board, on a motion by Phelps, seconded by Bean, the meeting was adjourned at 9:45 PM. Carried, 5 ayes, 0 noes.

Respectfully Submitted,

Town Clerk

