

## 9-10-2008 – REGULAR TOWN BOARD MEETING

Present:

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  
Town Clerk Betsy A. Marsh  
Approx. 40 guests

The Sardinia Town Board held its regularly scheduled Board meeting for September on September 10, 2008 at the Sardinia Town Hall/Community Center. Supervisor Balus called the meeting to order at 7:30 PM, with a few words memorializing Councilman Ann Bean, who died on August 26, 2008. She also asked that a moment of silence be held for Councilman Bean's family, as well as the families of Theo Stearns, Ruth Carlsen, and for all of our men and women serving our Country. The Supervisor then led the Pledge to the Flag.

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

The Supervisor's report included:

- The presentation of the Community Cause check by Judy Tobin to the Citizens Committee in the amount of \$250.00 for the Labor Day in the Park event. She stated that this month's Community Cause is the Protection Methodist Church for its painting of the Church fund.
- A report on Labor Day in the Park, with the Supervisor stating that an estimated 1500 people participated in the various activities. She thanked everyone who had made it a success, and reported that the event cost less than \$1,500.00.
- Information that the Town has received a NYS Archives Records Management grant in the amount of \$10,873.00 to conduct a records inventory. The Town Clerk stated she has received notice that the State is reducing the amount of each of these Archives grants by 6%, statewide, due to the State's fiscal crisis.
- Report that the phone and computer cabling and upgrade has been completed, as per request of the Planning Board and to accommodate additional phones and voice mail boxes in preparing for an Emergency Coordination Center.
- Notification that a plan is in the works to have a plaque made to honor the service and dedication of Councilman Ann Bean
- Reminder that it is time for the Budget process, and requests need to get in, and the Tentative Budget needs to be submitted to the Town Clerk by September 30<sup>th</sup>. Upon discussion, the Board decided on Thursday October 23<sup>rd</sup> at 7:00 PM as the date and time for the Budget Work Session, and scheduled the Public Hearing on the Tentative Budget for Wednesday November 5<sup>th</sup>, at 7:00 PM.

The Service Award Program for the Firemen was briefly discussed, and Supervisor Balus stated that it needs to be put on hold for the time being due to the death of Councilman Bean, possibly until the Board changes, because at least three votes are needed to send the issue to a mandatory voter referendum.

Concerning the House Numbering project, a letter was received from the Fire Company stating that they would like to move forward with the project but do not have enough manpower to distribute and erect the signs, and would like to have Town employees do that. Councilman Uhteg stated that there is a law currently on the books dealing with house numbers, and that would have to be changed before these signs could be erected in the manner that the Fire Company is proposing. He then read the current house numbering ordinance, which mandates house numbers be posted on the buildings themselves, or on a sign, mailbox, or other posting visible from the road. Attorney DiFilippo stated that the ordinance must be amended, and stated he will draft an amended ordinance, a public hearing on the new legislation must then be held, and the Board may then reject or adopt the new law. He stated that the Town's CEO recommends that, rather than mounting numbers on buildings, they be placed on signboards or mailboxes. Councilman Kenyon stated that State Building Codes give specifications for the size of the numbers. Mr. DiFilippo stated he would draft the legislation when he receives the desired wording to him.

Concerning the commercial truck in a residential area issue, the Supervisor stated that the Attorney for the Town will talk to the couple's attorney about a possible resolution, stating she would like to get the issue resolved.

The Supervisor stated she would like to investigate the possibility of sending rebate checks to Town residents from the nearly \$3 million that the Town has in investment accounts. The Supervisor stated, as she has stated in the past, that she is not in favor of doing a re-val update. Attorney DiFilippo stated that there is a mechanism where the Town can ask the County to apply money toward the County taxes, but he has never seen a situation where money is just handed out. Supervisor Balus stated that along with providing services for the residents, the Town needs to figure out what to do with overage. She stated she has a meeting with the Town's auditor on September 22<sup>nd</sup>, and will check with them. She stated they will be auditing Waste Management.

Councilman Phelps gave the Youth report, stating that the pool is now closed, and everything went great this year. She stated that there were 118 participants in the Summer Rec program, and stated that Jim Helmicki is working on a schedule for sports for next year. Ms. Phelps reported that Tiny Tots Rec started Tuesday. She also stated she has submitted the paperwork for the Automatic External Defibrillator.

Councilman Uhteg reported that the lighting on the outside of the Town Hall/Community Center is now complete. He also reported that he has the completed petition, signed by all of the property owners, for the street lighting project in the Mountainview Subdivision. He asked the Attorney for the Town to explain what comes next. Mr. DiFilippo stated that the annual cost will be divided by 16, the number of owners. The Attorney stated there is now a need to schedule a Public hearing on the new lighting district, and the notice of the hearing needs to be published 10 to 20 days before the hearing. The Board agreed on October 8, 2008 at 7:00 PM as the date and time for the hearing. Councilman Uhteg stated that there are some other intersections in the Town that are very dark and should be lighted for safety purposes. He stated he would like to come up with a list of intersections and some bad curves that are in need of lighting. The Clerk stated that in the past, when street lights had been added at intersections and for safety purposes, they have been added into the General Light District, and the cost shared by every taxpayer, since it is for the benefit of all.

Councilman Kenyon reported that, concerning water testing, he has spoken to Peter Gorton of Panamerican Environmental, and they will provide a bid for continuing the well testing program that had been done in the past, with five to seven residences in the proximity of the landfill being tested. He stated that Mr. Gorton also suggested that the Town decide on some long term planning for its water testing program. Mr. Kenyon also asked how to keep from losing the \$5,000.00 budgeted for 2008 for the house numbering signs, and was told that the money could be encumbered for 2009. Councilman Kenyon stated that, concerning the Countywide emergency services radio project, he is now hearing that it will cost the Fire Company a lot more than the estimated \$60,000.00, and hopes that the Town makes sure to get what we need for the Fire Company.

The Supervisor noted that the tree stump in the back of the Town Hall/Community Center is still there, and Councilman Uhteg stated he would contact a stump removal company for a price quote for its removal. He also stated that he has met with Building Caretaker/ Park worker Dennis Dick concerning the re-working of the safety area under the timber playground at the Genesee Rd. Park, and feels that the Highway Dept, will have to help with the project. Mr. Uhteg stated that landscaping timbers and loads of pea gravel will be needed and it is a very large project. The Supervisor stated that the time is now to move the Little League baseball diamond in the back of this building. Councilman Uhteg stated he has spoken to League members and they feel it can wait until spring, and that representatives of the Town and the league should sit down and plot it out. The Supervisor then asked Planning Board Chairman Dan Miller if that Board could look at the possible re-configuration of the nearby playground, also. He stated they would do so. Councilman Phelps asked if the proposed basketball court could be placed behind the Post Office building, since the Town owns the property. Supervisor Balus asked that the Planning Board could include that proposal in its review. Councilman Kenyon stated he would like to advocate for Manion Park, since the Board had agreed that the Chaffee Park should get some needed attention first.

Attorney for the Town Anthony DiFilippo III then gave the Board an update of legal issues concerning the Town. He stated that in the Town's Article 78 against the Zoning Board of Appeals, the case was heard on July 16<sup>th</sup>, and the Judge reserved decision at that time. Mr. DiFilippo stated that the Court has 60 days to make a decision. He stated that in the meantime, additional case law pertaining to the matter had come to his and Attorney Seeger's attention, and they have submitted that to the Court. He stated that a decision will hopefully be coming in the near future. In the Waste Management matter, the Town had received a Court order that depositions be given former Town Officials Bill Hare, Matt Mumbach, Carla Fuller, and the late Councilman Ann bean. He stated that they are trying to work out a date and time that will work for everyone, and they will be given on September 27<sup>th</sup> or 28<sup>th</sup>, with a time yet to be set. Attorney DiFilippo stated that the unsafe building on Olean Rd. is now 90% down, and other routine matters have been handled by him, including routine zoning questions, the street lighting district creation, and the Deerfield Drive commercial truck situation. That concluded the legal report.

The Town Clerk read her report for the month of August, 2008, the Code Enforcement Officer has submitted his report for August 2008, the Planning Board has submitted the minutes of its August 6, 2008 meeting, all of which were received and filed on a motion by Phelps, seconded by Uhteg, and carried, 4 ayes, 0 noes.

After review by Board members, General Fund Warrant#9, including vouchers #438 through #483, and totaling \$18,203.97; and Highway Fund Abstract #9, including vouchers #109 through #119, and totaling \$3,738.71, were approved for payment on a motion by Kenyon, seconded by Phelps, and carried, 4 ayes, 0 noes.

Under Privilege of the Floor:

Glen Mueller of the Sardinia Church of Christ spoke concerning the Variance that the Church was granted back in 2003 to build a new building on Rt. 39. He stated that Willey Well Drilling has purchased the building they have been meeting in, and the Church has been informed they will not be able to use it anymore. Mr. Mueller stated he has been informed that the Town's new Zoning Ordinance will not allow a church in that district, and that the Variance is no longer valid since no building was ever started. He stated that he expects the Town to honor its commitment. Attorney DiFilippo then read a memo he had received from CEO Marv Zielonka stating that he and the Attorney both agree that after reading the regulations, what they wish to build is a permitted use, call it what you may.

Denise Schiener thanked the Board for an enjoyable Rec and Pool program this summer, stating that Rec Director Jim Helmicki was great, and hopes the Town keeps him on. She also stated that the Earth Spirit programs, funded by Waste Management, were wonderful.

John Schiener spoke concerning the Household Hazardous Drop-off day at Waste Management, stating that the 3,000 tons of household hazardous waste allowed to be disposed of at the landfill each year is unacceptable, and more needs to be done to cut down on this amount being brought to our Town. He urged the Board to use its influence to encourage other communities to hold their own household hazardous drop-offs, in order to keep it out of Sardinia.

Concerning the secretarial pool positions, Supervisor Balus stated that she and Councilman Uhteg have interviewed applicants for the position and are recommending that Felecia Meyers and Sarah Hulton be hired to fulfill various tasks that may be required by the ZBA, Planning Board, or other such secretarial functions. On a motion by Uhteg,

seconded by Phelps, Felecia Meyers and Sarah Hulton were hired for the secretarial pool at an hourly rate of \$11.00. Carried, 4 ayes, 0 noes.

Supervisor Balus stated that the Historical Society has unanimously passed a resolution requesting that the Town Board authorize the removal of the suspended ceiling at the Old Town Hall. Councilman Uhteg read the Historical Society's resolution. The Supervisor stated they have pledged to do the work and cover the cost of insulating the attic space and installing temporary lighting for the main room. On a motion by Kenyon, seconded by Uhteg, all of the Board members agreed that the work should be allowed. Carried, 4 ayes, 0 noes.

The Supervisor has received a request from Town Justice Vossler for authorization for the Court to apply for a grant through the New York State Office of Court Administration. Therefore, the following resolution, to be known as Resolution #43 of 2008, was introduced by Phelps, seconded by Uhteg:

#### **RESOLUTION #43 - 2008**

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

Upon roll call vote: Kenyon, aye, Phelps, aye, Uhteg, aye, Supervisor Balus, aye. Resolved, 4 ayes, 0 noes. So resolved.

Supervisor Balus stated that Youth Committee liaison Councilman Phelps has requested the hiring of Colleen Cottrell and Christine Hulton as Tiny Tots substitutes, effective immediately, at the rate of \$7.36 per hour. On a motion by Uhteg, seconded by Phelps, Colleen Cottrell and Christine Hulton were hired as Tiny Tots substitutes at \$7.36 per hour. Carried, 4 ayes, 0 noes. The Supervisor asked who the person in charge of the program is, and Councilman Phelps stated that Laura Marshall is unofficially the lead person. It was discussed briefly if it would be appropriate to pay Ms. Marshall more money, and the matter will be reviewed.

The Supervisor stated that the Erie County Board of Elections has forwarded a lease agreement for polling places within the Town, and has requested that the Supervisor execute the agreement, whereby the County would pay the Town \$200.00 for the use of the Town Hall/Community Center on Primary Day, September 9<sup>th</sup> and \$200.00 for the General Election, November 4<sup>th</sup>. The following resolution, to be known as Resolution #44 of 2008, was then introduced by Kenyon, seconded by Phelps:

#### **RESOLUTION #44 – 2008**

**RESOLVED**, The Sardinia Town Board hereby authorizes Supervisor Kathleen Balus to execute the lease agreement with Erie County Board of Elections for polling places for the Primary Election and the General Election, at the rate of \$200.00 per day for the Town.

Upon roll call vote: Kenyon, aye, Phelps, aye, Uhteg, aye, Supervisor Balus, aye. Resolved, 4 ayes, 0 noes. So resolved.

Supervisor Balus stated that Erie County has requested that she sign the Memorandum of Understanding for the 2008 STOP DWI program. On a motion by Phelps, seconded by Uhteg, the Supervisor was authorized to sign the Memorandum of Understanding. Carried, 4 ayes, 0 noes.

Councilman Kenyon commented that the Labor Day in the Park Celebration was great. He also noted that the Genesee Rd. cemetery looks phenomenal, and wondered who the groundskeepers were. He was informed that Dottie and Fran Beyer are the groundskeepers, employed by the Rural Cemetery Association. He suggested that the Town send them a letter of thanks for the care they take.

Denise Schiener asked what the procedure was for filling the vacancy on the Board. Supervisor Balus stated she was not sure, stating she has not thought about it. She stated that a letter of interest has been received from a Town resident. Attorney DiFilippo stated that it can be filed by appointment, or by special election. He stated there may still be time to get candidates on the ballot for the November election. He stated he would check with the Board of Elections and find out what the deadline is for that procedure. He stated that in the rare case of a deadlock, the Governor can actually appoint.

John Schiener stated that since it is Town Budget time, he would suggest that the Board include money in the 2009 Budget for a landscape architect for the Parks, so that the parks do not become a hodgepodge, and that the Board should consider using the \$3 million in the investment funds for a backbone water district and for a Chaffee Water District.

Councilman Uhteg spoke on the negative comments concerning the lowering of the flag to half staff to honor the passing of Councilman Ann Bean. He stated he feels it was appropriate, and the Town Clerk stated it was a group decision, and also feels it was appropriate.

The Supervisor made the following announcements:

- The next Board meeting will be held on October 8, 2008, at 7:30 PM.  
A Public Hearing on the Timelessview/Joshua Drive street lighting district will be held on October 8, 2008 at 7:00 PM
- The next Planning Board meetings are scheduled for September 17, 2008 and October 3, 2008, at 7:30 PM.

Other announcements included:

- The Historical Society is sponsoring a Fish Fry and mum sale on Friday September 26<sup>th</sup> to benefit the purchase of new chairs and tables for the Old Town Hall. Pre-sale tickets are available.
- The Senior Flu clinic will be held on Friday November 7<sup>th</sup> from 9 AM until 1 PM. The Town will be providing lunch for the Seniors.

- The fire Company will be holding a tool raffle on September 14<sup>th</sup> from noon until 4:00 PM at the Sardinia Fire Hall.

Tom Lewis of Waste Management asked about the luncheon at the Senior Flu Clinic, stating that Ann Bean had asked Waste management to provide the lunch, as in the past. The Supervisor stated she will contact him about it.

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

Respectfully Submitted,

Town Clerk