

10-8-2008 – 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
Highway Superintendent Walter J. Baker
Town Clerk Betsy A. Marsh
Approx. 40 guests

The Sardinia Town Board held its regularly scheduled Board meeting for October on October 8, 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 everyone remember 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 September 10, 2008 Regular Town Board meeting, which were approved and filed on a motion by Uhteg, seconded by Kenyon, and carried, 4 ayes, 0 noes.

The Supervisor's report included:

- The presentation of a plaque in recognition of the late Councilman Ann Bean. The family asked that the plaque be displayed here at the Town Hall/Community Center, and it was given to the Town Clerk for that purpose.
- The presentation of the Community Cause check in the amount of \$241.00 by Judy Tobin to the Protection Methodist Church for its painting and renovation of the Church fund, which was accepted by the Pastor of that Church. Ms. Tobin then stated that this month's Community Cause is the Senior Flu Clinic.
- Preparation of the 2009 Tentative Town Budget, which was then submitted to the Town Clerk on September 30th.
- Congratulations to Sardinia's Town Historian Leo McCarthy for all his efforts for a successful nomination to the State and National Registry of Historical Places; this will open up several additional opportunities for funding sources and grants. The Supervisor also reported that, unfortunately, the grant for engineering for renovations to the Old Town Hall was not received, but Mr. McCarthy is confident that \$2,500.00 for a study of the building will be forthcoming.
- Set up and facilitation of audit procedures of Waste Management's tonnage and fees paid to the Town, to be conducted by Laura Landers of Freed Maxick & Battaglia, PC, the Town's outside auditor.
- Meeting with the new secretarial pool to discuss coordination of various job responsibilities
- Meeting with Legislator Kathy Konst for the quarterly meeting with Supervisors, during which they discussed road repairs on Allen and Matteson Corners Roads and issues with the Reforestry.
- Information that the Town was written up for some violations during an inspection by the NYS Labor Dept. and OSHA. She reported that the Town was cited for a ladder and voting machines in the hallway impeding Handicapped accessibility, and for having combustibles too close to the electrical panel, and for having no access to that panel, in the storeroom at the end of the gym. She pointed out that the violations have been remedied, the building caretaker has built shelves and the medical equipment has been gone through and some will be done away with.

Items for discussion included:

- Stevens Electric, the company who installed the new lighting on the outside of the building, noted that the Town will probably need new flashing on the roof of the Town Hall/Community Center.
- 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 until the makeup of the Board changes to allow a vote to send the issue to a mandatory voter referendum.
- Concerning the House Numbering project, the Town will need to modify the current legislation dealing with house numbering, and that would have to be changed before these signs could be erected in the manner that the Fire Company is proposing. Town resident Gene Parzych submitted pictures of the signs in other towns in adjoining counties, so that different styles could be seen. Councilman Kenyon stated that the Fire Company is trying to find product, since, due to the Town's 5 digit house numbers, the signs would have to be larger. He stated that the County sign shop would charge \$12.66 for the size signs that the Town would need.
- Concerning the commercial truck in a residential area issue, the Supervisor stated that the Attorney for the Town has contacted the truck driver's attorney who is now representing the truck owner, also, who is worried about the expense of having to leave the truck elsewhere. Attorney DiFilippo stated he talked to their attorney about a possible compromise, but stated he sees no legal solution except new legislation. Supervisor Balus stated that Deerfield Drive is a strictly residential street. Councilman Uhteg stated he has received calls on both sides of the issue from residents in another area of the Town.
- The Supervisor stated she has been researching the possibility of sending out resident rebate checks from the \$3 million fund balance. She stated that the State does not like municipalities to carry large surpluses. Attorney DiFilippo stated that Section 112 of the NYS Town Law allows a town to apply money towards the County taxes, but there is nothing on giving rebates. He stated that special Home Rule legislation would be needed, if even possible. Councilman Uhteg stated that his concern is that the large businesses in town would benefit the most from rebates. The Supervisor stated that perhaps the Town should look into a Homestead type exemption so that only residents would get the benefits, and also asked if the Fire District Tax could be paid for with the

surplus. Attorney DiFilippo stated he would have to research the matter. Councilman Kenyon stated that he feels there are things that the Town should be spending money on, for example we have a Court room that does not meet standards, and the Board meetings are held in a gymnasium with no heat or air. The Supervisor stated she also believes that the Town should be taking care of its buildings. She also re-stated that she has no interest in doing a Re-val update, despite what others continue to say. Mr. Kenyon stated that the Town should be looking at what needs to be done.

Councilman Phelps gave the Youth report, stating that the Tiny Tots Recreation Program has received a donation in the amount of \$500.00 from Waste Management, and the staff is asking for permission to purchase a \$385.00 reading rug with the money. On a motion by Uhteg, seconded by Kenyon, the Board approved the purchase. Carried, 4 ayes, 0 noes.

Councilman Uhteg stated that, concerning streetlights for various unlighted intersections, he is still trying to get a price quote from NYSEG on the lights.

Concerning a water testing program, Councilman Kenyon stated that he has spoken with Peter Gorton of Panamerican Environmental, and for 5 to 8 wells to be tested twice a year, has quoted a cost of between \$21,600.00 and 31,600.00. Mr. Gorton also suggested that the Town install test wells at places such as Manion Park, Genesee Rd. Park, etc. Mr. Kenyon stated he would like to talk to Tom Lewis of Waste Management since that company has test wells at their facility. He also stated that there is \$20,000.00 in the 2008 budget which could be used for 1 round of testing.

Concerning the tree stump behind the Town Hall/Community Center, the Highway Superintendent stated that he has another stump that will need grinding down, and will have both taken care of at the same time. The base of the playground at the Genesee Rd. Park was also discussed and it was decided to do that work next spring, since it is a big job and the Highway Dept. will be asked to assist.

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 16th, and the Judge reserved decision at that time. Mr. DiFilippo stated that we are still awaiting the decision. In the Waste Management matter, the Court ordered depositions of former Town Officials are scheduled to be taken on October 17th, here at the Town Hall/Community Center. Mr. DiFilippo stated that an Order to Show Cause had been served on the Town Clerk in the matter of a traffic accident involving the Town Assessor, and that Order has now been withdrawn. Mr. DiFilippo stated he has researched questions regarding the vacancy on the Board, and the Firemen's Award Program. He reported that the Comptroller's office dictates that 3 votes are needed to send the matter to a referendum. The Attorney for the Town concluded his report by stating he had done other routine correspondence, and copied the Board on those items.

The Town Clerk read her report for the month of September 2008; the Code Enforcement Officer has submitted his report for September 2008.

Highway Superintendent Walter Baker gave a report of his department's activities for the month, stating that the speed limit signs have been erected on East Schutt Rd. He stated that Grove St., Lake St., Mehm Rd., Reed Rd., Meyers Rd., Deerfield Dr., West Ave., and Hosmer Dr. have now all been chipped and sealed. Mr. Baker informed that his department is still mowing grass, and that there are more dead trees in the Genesee Rd, Park, including a couple of large ones that are down. He stated that there are the 2 tree stumps to be ground, including one in Chaffee and the one behind this building, and there are some dead trees that need to come down at Manion Park, also. Mr. Baker reported that the Erie County Health Dept. is now saying that the Town must do raw water testing, which is before chlorination, but he stated that there is no place to get the raw water from, since it goes directly from the well into the chlorinator. He also stated that we will have to do two samples per month all year long, and it will be costly because it has to be tested in a certified lab. The Superintendent stated that work to close the pool down for the season started today, and a load of sand will be delivered tomorrow for use on the roads. Concerning the Erie County Road work, Mr. Baker stated that the shoulders will be going in on Allen Rd. tomorrow, and Matteson Corners Rd. is being ground down. The Highway Superintendent stated that this would probably be his last meeting for the year, but his employees will be handing the shop. The Supervisor stated she has asked our County Legislator for lines to be painted on Genesee Rd., and Mr. Baker stated he has asked the County to paint the lines on Middle Rd., as well.

The Planning Board has submitted the minutes of its August 20, 2008 meeting, and also a packet with its recommendations concerning the baseball diamonds and the parking configurations at the Town Hall/Community Center. The Supervisor stated that copies of the Planning Board's recommendations will be made for Board members tomorrow. There were no ZBA minutes, and on a motion by Kenyon, seconded by Phelps, the Planning Board's minutes were received and filed, carried, 4 ayes, 0 noes.

After review by Board members, General Fund Warrant#10, including vouchers #484 through #528, and totaling \$18,552.40; and Highway Fund Abstract #10, including vouchers #120 through #140, and totaling \$51,084.86, were approved for payment on a motion by Uhteg, seconded by Phelps, and carried, 4 ayes, 0 noes.

Under Privilege of the Floor:

Clint Salmon of Sardinia gave a report on Senior programs, and stated that the Rural Transit Van Program recently held its awards dinner, at which Town residents Joan Krohn, Dave Montgomery, James Montgomery, Dolores Walker, and Ron Hoyt received awards for their service. The Retired Senior Volunteer Program also gave out awards, which were presented by County Executive Chris Collins, who noted that these volunteers saved the County an estimated \$30 million last year by their volunteerism. Town residents Lowell Millar, Ruth Sawchuk, Lyle and Norma Spaulding, Dick and Betty Shimburski, and Dick and JoAnn Rogers received awards for their service. Mr. Salmon stated that it was announced at that time that a new van will be delivered in the near future. He also stated that 16 individuals were presented with Presidential Awards for 4,000 hours of service, and he stated he was honored to have been one of those to receive the award. Mr. Salmon informed the Board that the Senior Citizens

Thanksgiving Dinner will be held on November 18, 2008 at 12:30 PM at the Hearth. He stated that the cost has gone up \$1.00 per person and stated that the Town has spent approximately \$6.50 per Senior in the past.

Sardinia resident Gene Parzych asked Councilman Kenyon if he has gotten prices on house numbers. Mr. Kenyon stated that if the Town itself applies the numbers to the signs, they will cost approximately \$12.00 per sign. Mr. Parzych stated that he thinks the horizontal signs show up better. He also noted to the Supervisor that he was the one who had brought up the subject of a re-val, and the Supervisor stated she didn't say she would re-val. She stated it would be a Board decision if it were ever to be done, but that she has no interest in doing one.

Nancy Farthing stated she had e-mailed the Supervisor concerning the slow response time of the fire Company, and received nothing back, but stated she now understands why there are Mutual Aid agreements between Fire companies, because not everyone can be a volunteer fireman. The Supervisor stated they need more volunteers.

The Supervisor stated there has been a request from the Historical Society for some repairs to the old Town Hall. She asked if the Board could start to think about what repairs need to be done, and there is \$12,000.00 still in the budget. She stated she hates to lose that \$12,000.00 if there are priority things that need to be done. Councilman Uhteg stated that some of the things that have nothing to do with the restoration, but are just ever day maintenance items, could be done without the Board taking action.

Concerning the Caretaker Position, the Supervisor stated that as many of the job responsibilities at the Community Center are more caretaker related, she is recommending that Dennis Dick be hired to fill the Caretaker position at the rate of \$10.10 effectively immediately, and further recommended that the Caretaker Sub Position be filled by Chuck Tobin at the same rate of \$10.10. On a motion by Phelps, seconded by Uhteg, the Board appointed Dennis Dick as Caretaker, and Chuck Tobin as Caretaker Sub, both at an hourly rate of \$10.10 per hour. Carried, 4 ayes, 0 noes.

The Supervisor stated that she would like the Board to set a policy concerning timesheets. She stated that it has been difficult to estimate how much should be put in the budget for a position when timesheets are not submitted in a timely fashion. After discussion, on a motion by Kenyon, seconded by Uhteg, timesheets must be submitted by the end of the following month, and all payroll sheets for a given year must be submitted before January 5th of the following year. Carried, 5 ayes, 0 noes.

Supervisor Balus stated that preceding this meeting, the Board held a Public Hearing on CDBG funding. At that time, the Board prioritized projects for application, and the Board must now adopt a resolution listing the projects in order of priority. The following resolution, to be known as Resolution #45 of 2008, was introduced by Phelps, seconded by Uhteg:

RESOLUTION #45 – 2008

RESOLVED, the Sardinia Town Board hereby authorizes Supervisor Kathleen M. Balus to make application to the Erie County Community Development Block Grant Consortium for funding of the following three projects, in order of priority, as follows:

- 1) Pool house renovation or reconstruction
- 2) Old Town Hall renovations for handicapped accessibility
- 3) Rural Transit Van Program Consortium

AND, BE IT FURTHER RESOLVED to authorize Supervisor Balus to execute the contract with Erie County for such projects.

Upon roll call vote, Kenyon, no, Phelps, aye, Uhteg, aye, Balus, aye. So Resolved, 3 ayes, 1 no. Mr. Kenyon qualified his vote by stating that he felt the Old Town Hall renovations should be priority #1.

The Supervisor stated that also earlier this evening, a Public Hearing was held for the purpose of hearing comments on the creation of a Street lighting district on Timelessview Dr. and Joshua Dr., in the Mountainview Subdivision. She stated that there were no comments on the project at that time. She stated that the Board must now declare itself Lead Agency in the SEQR Review of the project, and on a motion by Uhteg, seconded by Phelps the Sardinia Town Board declared itself Lead Agency in the State Environmental Quality Review of the creation of a Street lighting district in the Mountainview Subdivision. Carried, 4 ayes, 0 noes.

The Attorney for the Town advised that the Town must now review the Short Environmental Assessment Form. Upon doing so, the Board agreed that the Street lighting project was an unlisted action, and would cause no environmental impact. Therefore, the following resolution, to be known as Resolution #46 of 2008 was introduced by Uhteg, seconded by Phelps:

RESOLUTION #46 – 2008

RESOLVED, the Sardinia Town Board hereby adopts the Short Form Environmental Assessment Form for the creation of a Mountainview Subdivision Street Lighting District, and hereby declares that the project will cause no adverse environmental impact.

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

Having declared itself Lead Agency and declaring that no adverse environmental impact would be caused by the creation of a Street Lighting District, the following resolution, to be known as Resolution #47 of 2008, to approve the establishment of the Street Lighting District, was introduced by Uhteg, seconded by Phelps, as follows:

RESOLUTION #47 – 2008

RESOLUTION OF THE TOWN OF SARDINIA, NEW YORK, ADOPTED OCTOBER 8, 2003, APPROVING THE ESTABLISHMENT OF THE TIMELESSVIEW DRIVE AND JOSHUA DRIVE LIGHTING DISTRICT IN SAID TOWN AND THE PROVISION OF LIGHTING SERVICES THEREIN

WHEREAS, the Town Board of the Town of Sardinia (herein called "Town Board" and "Town", respectively), in the County of Erie, New York, has received a petition, dated August 13, 2008, pursuant to Section 191 of the Town Law, for the establishment of the Timelessview Drive and Joshua Drive Lighting District (hereinafter called the District), which petition was signed by all of the owners of taxable real property as shown upon the latest completed assessment-roll of said Town, which petition provided that the annual costs of the provision of the lighting services shall be assessed by the Town Board, in proportion as nearly may be, to the benefit which each lot or parcel will derive therefrom and was accompanied by a map plan and report showing the boundaries of the proposed District and all the light fixtures to be installed by New York State Electric and Gas in connection therewith and estimated annual costs with the proposed District to be service only with no capital costs, which map and plan have been duly filed in the office of the Town Clerk of the Town for public inspection; and

WHEREAS, the Town Board has given due consideration to the impact that the establishment of the District may have on the environment and, on the basis of such consideration, the Town Board has found that no substantial adverse environmental impact will be caused by the establishment of such District; and

WHEREAS, the Town Board and the Town have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, a duly executed Environmental Assessment Form has been filed in the office of the Town Clerk and a negative declaration issued; and

WHEREAS, the Town Board has determined to proceed with the creation of the proposed District and the provision of the lighting services in the proposed District; and

WHEREAS, said petition described the boundaries of the proposed District in a manner sufficient to identify the lands included therein as in a deed of conveyance and was signed by the petitioners and acknowledged or proved in the same manner as a deed to be recorded; and

WHEREAS, pursuant to the Order duly adopted on September 10, 2008 the Town Board determined to proceed with the establishment of the proposed District and adopted an Order reciting in general terms the filing of such petition, a description of the boundaries of the District in a manner sufficient to identify the lands included therein as in a deed of conveyance, the services proposed to be provided, the fact that a map and plan describing the same are on file in the Town Clerk's office for public inspection and specifying October 8, 2008 at 7:00 o'clock P.M. (Prevailing Time), as the time when, and the Town Hall in the Town, as the place where, the Town Board would meet to consider the establishment of the proposed District and the provision of the services to be provided for the proposed District, and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by Law; and

WHEREAS, certified copies of such Order were duly published and posted and filed with the Department of Audit & Control pursuant to the provisions of Article 12 of the Town Law; and

WHEREAS, a Public Hearing in the matter was duly held by the Town Board on this 8th day of October, 2008, commencing at 7:00 o'clock P.M. (Prevailing Time), at said Town Hall, at which all interested persons desiring to be heard were heard, including those in favor of, and those opposed to, the establishment of the proposed District;

Now, therefore, upon the evidence adduced at such Public Hearing, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF SARDINIA, IN THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. It is hereby determined that:

- (a) the petition was signed and acknowledged or proved as required by law and is otherwise sufficient;
- (b) the notice of public hearing was duly published and posted as required by and written notice was duly given to all property owners in the proposed District;
- (c) all the property and prospective property owners included within the proposed District, hereinabove referred to in the recitals hereof, will be benefited thereby;
- (d) all the property and prospective property owners benefited will be included within the limits of the proposed District; and
- (e) it is in the public interest to grant in whole the relief sought.

Section 2. The establishment of the District hereby approved, as hereinafter described, and the provision of the lighting services therein as set forth in the said Order Calling the Public Hearing, hereinabove referred to in the recitals hereof, and the District shall be designated and known as Timelessview Drive and Joshua Drive Lighting District, in the Town of Sardinia, situate wholly outside of any incorporated village or city, and shall be bounded and described as follows:

All That Tract or Parcel of Land situate in the Town of Sardinia as shown on the Mountain View Subdivision Map filed in the Erie County Clerk's Office on February 8, 2006 under map cover 3302.

Section 3. The District is to be a service only district with no capital costs, and the expense of the provision of the services and the maintenance of the District shall be paid by the assessment, levy and collection of assessments upon the several lots and parcels of land within the District which the Town Board shall deem especially benefited by said facilities so much upon and from each as shall be in just proportion to the amount of benefit which the improvement shall confer upon the same;

Section 4. The Town Clerk of the Town is hereby authorized and directed within ten (10) days after the adoption of this resolution, to record with the County Clerk of the County of Erie and file with the Department of Audit and Control in Albany, New York, copies of this resolution certified by said Town Clerk.

Section 5. This resolution shall take effect immediately.

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

Questions included:

Denise Schiener asked that an attempt be made to give the surplus hospital equipment away to someone who can use it. The Clerk stated that she has contacted a small nursing home and they may take some of the equipment, and she will contact the Trading Post to see if they have any use for any of it. Ms. Schiener then asked the Supervisor if she would like her to put together a committee to put their heads together and find ways to spend the \$3.1 million in surplus funds. The Supervisor agreed this might be a good idea.

Chaffee resident Mort Benstead commented that it might be a liability to the Town to give away the hospital equipment, and that if someone got hurt on the equipment, which is older and outdated, they might come back on the Town.

Robert Kaiser of Chaffee stated he would like the Board to reconsider its vote to accept the \$500.00 donation from Waste Management for the reading rug, and asked if it would have garbage trucks on it.

The Supervisor's secretary stated that there are several Epsom printer ink cartridges, which were given to the Town by someone who purchased a new printer and can no longer use them. She stated that no one in any of the Town offices has a use for them, either, and stated if anyone can use them, please feel free to take them.

Sardinia resident Tom Lewis asked Supervisor Balus if she still wants Waste Management to provide the Senior Flu Clinic luncheon, as in the past. He stated they have it scheduled, and she was to get back to him on it, but still has not. The Supervisor stated she will call him by Friday at the latest.

Supervisor Balus stated that the Board would go into a brief Executive Session to discuss an employee, and if discussed in public, would be an unwarranted invasion of privacy. She stated that there would be no action taken at the end of the session, and stated that before the Board moves into that session, she would like to do the announcements, so that anyone who would like to can leave, instead of waiting around. Therefore, the following announcements were made:

The following meetings have been scheduled:

2009 Budget Work Session - October 23, 2008 at 7:00 PM

The next Regular Town Board Meeting - November 12, 2008 at 7:30 PM

The Public Hearing for the 2009 Budget- November 5, 2008 at 7:00 PM

Planning Board meetings:

Oct. 15th at 7:30 PM

Nov. 5th at 7:30 PM

Other Information included:

- Voter Registration Day, October 11th at the Town hall/Community Center, 1:00 PM until 9:00 PM
- Election Day, November 4th at the Town Hall/Community Center, Polls open at 6:00 AM, close at 9:00 PM
- Senior Flu Clinic, Friday, November 7th, 9:00 AM until 1:00 PM
- The Sardinia Methodist Church will be holding a Spaghetti dinner on Election Day

The Board then moved into Executive Session at 9:12 PM on a motion by Phelps, seconded by Uhteg, and carried, 4 ayes, 0 noes.

The Board then came back into Regular Session at 9:16 PM, with the Supervisor stating that a personnel issue was the only thing that had been discussed.

There was no further business to come before the Board, on a motion by Phelps, seconded by Uhteg, the meeting was adjourned at 9:17 PM. Carried, 4 ayes, 0 noes

Respectfully Submitted,

Town Clerk