

11-12-2008 – 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. 60 guests

The Sardinia Town Board held its regularly scheduled Board meeting for November on November 12, 2008 at the Sardinia Town Hall/Community Center. Supervisor Balus called the meeting to order at 7:30 PM, asking that all of the Veterans in the audience stand. There was then a moment of silence, and the Pledge to the Flag.

The Town Clerk has submitted the minutes of the October 8, 2008 Regular Town Board meeting, the minutes of the October 8, 2008 Public Hearing on the creation of the Street lighting District for Timelessview Drive and Joshua Drive, the Public hearing on the 2009-2010 Community Development Block Grant funds, and the October 23, 2008 Work Session on the 2009 Town Budget. These minutes all were approved and filed on a motion by Phelps, seconded by Uhteg, and carried, 4 ayes, 0 noes.

Supervisor Balus stated that at this time, the Board had three items to discuss in Executive Session, 1 concerning litigation, 1 concerning an issue involving a child in the Tiny Tots Recreation program, and 1 concerning a collective bargaining matter. On a motion by Phelps, seconded by Uhteg, the Board then moved into Executive Session at 7:32 PM. Carried, 4 ayes, 0 noes.

The Board reconvened the Regular meeting at 8:32 PM on a motion by Phelps, seconded by Uhteg, and carried, 4 ayes, 0 noes.

The Supervisor gave her report for the month, which included the following:

- The Community Cause for last month: Funds in the amount of \$242.00 were paid to Stacy Klimzak to offset the cost for the expense of the breakfast provided at the Senior Flu Clinic. Next month's Community Cause will be the Trading Post in Springville.
- Approximately 113 shots were given to our Seniors at the Flu Clinic that was held on November 7th, all but 11 vaccinations were paid for by insurance and the VNA will be submitting an invoice to the Town for approx. \$300.00. Supervisor Balus stated there had been a misunderstanding about who pays for the vaccinations. She stated she had been led to believe that Waste Management has paid for them, but it appears that they paid for the food but not the vaccinations. She stated the Town will pay the \$300.00, and an anonymous donor paid for the breakfast.
- The Supervisor reported that she reviewed and submitted the grant proposals to CDBG for the pool house renovation and that next Wednesday at 3:00 PM, the project will be reviewed by CDBG representatives.
- The Supervisor also reported that she discussed with Laura Landers the audit of WM, and a report will be available at the next Board Meeting.
- The Supervisor reported that she submitted the Tentative Budget to the Town Clerk for distribution to the public for the Public Hearing.
- She also had a discussion with Laura Landers of Freed Maxick & Battaglia, PC regarding the 2008 Audit of all departments of the Town, including the lighting districts, to be performed in February 2009. She stated she received a Letter of Agreement last week concerning the audit.

The Supervisor stated that a request has been received from Laura Marshall for permission to use the Town Hall/Community Center to host Transition Lifestyle System for 12 consecutive weeks starting in January 2009 on Thursday evenings, and a request has been received from St. Jude's Altar and Rosary Society for permission to reserve the Town Hall/Community Center on Friday and Saturday, Sept. 25th and 26th 2009, for the purpose of their Chinese Auction Fund Raiser. The Town Clerk stated she had checked the calendar and there were no conflicts for those uses.

A letter was received from Tom Lewis of WM asking for a \$2.50 reimbursement for payment for copies made through a FOIL Request. He stated that others are not paying for copies, and he does not feel he should have to pay if others don't. Republican Chairman Mike Hannon has asked for an investigation into allegations of improper use of the copy machine. The Supervisor stated that codes will be set up on the copier for each individual department so that the copier will keep a count of usage by each department. On a motion by Phelps, seconded by Uhteg, the Board voted to refund Mr. Lewis' \$2.50. Carried, 4 ayes, 0 noes. Mr. Hannon asked the Supervisor if she had investigated the allegations, and she responded that she had seen nothing to investigate, and no proof of anything. She stated that Attorney DiFilippo had not received a letter. Mr. Hannon asked if she had talked to any of the people he had suggested she speak to, and she stated she had not. None of the Board members had any comment.

Discussion included:

- The roof at the Town Hall/Community Center leaks and perhaps need flashing. Councilman Uhteg stated he would get someone to come and look at it.
- Concerning the Chaffee-Sardinia Fire Company Service Award Program, the Supervisor stated that at the

next meeting, the Board would be prepared to vote to send the matter to a voter referendum.

- Concerning the house numbering project, the Supervisor stated they are looking for volunteers to erect the signs. She stated that Attorney DiFilippo also needs the necessary information to draft an amendment to the Town's current ordinance.
- The Supervisor stated that the Board is still working on the commercial trucks in a residential area.
- Supervisor Balus stated she is still investigating whether rebate checks could be sent out to residents from the \$3 million fund balance, or if the Fire District tax could be paid from that fund. The Attorney for the Town stated that he has asked if the Fire District is solely within the Town, and was told that it is, and if the Fire Company is contracted with any other municipality, and was told they do not. Mr. DiFilippo stated that he has researched and found Section 112 of the NYS Town Law, which allows a Town to put money toward the County portion of residents' tax bills. He stated that it may be too late for this upcoming tax year.

Councilman Phelps stated there was no Youth report this month, and that she has received only 1 application for the Friday Night Recreation attendant position.

Councilman Uhteg stated that he now has a list of intersections that are not lighted, and he will be checking with NYSEG to see if it is possible to add lights to these intersections, and what the cost would be. He also stated that he will be getting a sample of the website from the County.

Councilman Kenyon stated he will report on the water testing later in the agenda.

Mr. Uhteg stated he has contacted the Highway Employees' Association, and will get the talks started. He stated that, concerning the stump removal, he will contact someone to have it removed.

Attorney for the Town Anthony DiFilippo, III gave a report of legal matters affecting the Town. He stated that he received the maintenance agreement pertaining to the generator for review, and would like to see last year's agreement, and asked that it be sent to him. He stated it looks like an annual agreement. In the ZBA/Gernatt litigation matter, Mr. DiFilippo stated that Judge Devlin's decision was issued on October 24th, and he sent a copy to the Supervisor, and subsequently to the Town Clerk. The Attorney stated that, regarding the Waste Management litigation, depositions were taken from former Supervisor Bill Iare, and former Councilmen Carla Fuller and Matt Mumbach on October 17th. He stated he has notified the Board that there will be a pre-trial conference on December 16th, and then the case will be ready for trial. Mr. DiFilippo stated that the filing requirements for the new lighting district, have been completed and the resolution has been filed with the Assessor and NYSEG. Councilman Uhteg stated we should be all set with the street lighting district. Attorney DiFilippo stated that he has dealt with 2 or 3 zoning matters, and asked the Planning Board Chairman if Sarah Best had attended any Planning Board meeting, and was informed that she has not. Mr. DiFilippo stated he had handled the usual routine correspondence, and that concluded his report.

The Town Clerk's monthly read her report for the month of October 2008, and CEO Marv Zielonka has submitted his report for October 2008.

Supervisor Balus stated she has received the Planning Board minutes of the October 15, 2008 Planning Board meeting, but has not received the September minutes. On a motion by Phelps, seconded by Uhteg, the October 15, 2008 Planning Board minutes were received and filed. Carried, 4 ayes, 0 noes. The Supervisor stated that the September's minutes will be received and filed at the next meeting, and that there were no ZBA minutes.

After review by Board members, General Fund Warrant#11, including vouchers #529 through #571, and totaling \$14,237.49; and Highway Fund Abstract #11, including vouchers #141 through #160, and totaling \$30,902.98, were approved for payment on a motion by Kenyon, seconded by Phelps, and carried, 4 ayes, 0 noes.

Under Privilege of the Floor:

Apparent Councilman-Elect Mary Hannon asked that the Supervisor and the Town Board to disassociate themselves from the Sardinia Standard and the website hometic.com. She stated she believes these breed hostility with their unsigned, one-sided, unkind and negative editorials and opinions. She stated that if the Board wants to work together for the good of all the residents, the Board should supply the residents with a Town website with honest, factual, unbiased information, and she asked the Supervisor to cut her ties with both of these.

Senior Citizens trip coordinator Dick Rogers announced that on November 18th, the annual Senior Citizens Thanksgiving Dinner will be held at the Hearth Restaurant at 12:30 PM, and he asked that anyone attending bring a non-perishable food item, which will be used for the "Blizzard Boxes" for meals on wheels.

Sardinia resident and Sardinia American Legion member Dave Malachowski thanked the Town for its support of the Memorial Gazebo and the new memorial headstone, and requested that the local papers include in their reports on the meeting that the money used for the stone was from the money that had been donated in the past for the memorial.

Town resident Gene Parzych thanked the anonymous donor for the food at the annual Flu Clinic. He also thanked the anonymous donor who paid for the Senior Citizens share of the Thanksgiving dinner. He also asked about the availability of grant money from Senator Volker's office for the Town's water testing program, and the Supervisor stated it was her understanding that the program was no longer available. She stated she had submitted for the '13, '04, and '05 moneys, which she stated no one had submitted the proper paperwork for, but that it is no longer available. Mr. Parzych asked about making copies, and stated he would like to see Town residents be able to make copies for free. He stated he currently pays \$.20 per copy. The Supervisor stated that the Town will be tightening up on that, and the copier will have codes and counters for each individual department. The Clerk stated that anyone who makes copies during her office hours pay the \$.20, or \$.25 for FOIL copies.

Town Resident Mike Hannon stated that he had sent a letter to the Supervisor asking her to investigate a matter of illegal use of the Town copy machines and he is disappointed that she has not followed through on it. He asked if she has spoken to the Highway Superintendent or the Clerk about it, and the Supervisor stated she has not. He stated he had hoped it would be handled in-house, but now it will need to be determined if it should be taken any further. Supervisor Balus stated she will speak with Mr. Baker and the Board will wait for an affidavit.

Resident Kara Kane stated that the website has been mentioned a couple of times, and she expressed her concern that the Town needs an unbiased site where residents and people from outside the Town can go to get information. She stated that if the County cannot get a site up and running, she hopes there are contingency plans in the budget for the Town to set one up. Mr. Uhteg assured her that by the December meeting, we will have a website.

Sardinia resident John Schiener urged the Board to appeal the Gernatt/ZBA decision, stating that for 20 years, the Town has fought to keep the Gernatt Gable/Thomas site from being mined, through 4 Supervisors and 15 Councilmen, and now three unelected people have undone all of it by granting the variance.

Robert Kaiser addressed the Board on the issue of hometic.com and the Sardinia Standard. He stated that if you want to get rid of the Sardinia Standard and Hometic.com, you would also have to get rid of the other papers and even the Post Office because it lets unsigned, slanderous letters go through the mail. The Supervisor stated that the Board has no control over any of those papers, or hometic.com, and she does not control the papers.

Councilman-elect Dave Montgomery asked who owns the Sardinia Standards, and the Supervisor stated she does not know who owns it, nor does she know who owns the other papers.

Concerning the maintenance agreement for the generator, the Supervisor stated that the maintenance agreement with Milton CAT for the generator is due on January 1, 2009, and the cost of this agreement is \$936.00 and will expire January 1, 2010. On a motion by Uhteg, seconded by Phelps, the agreement was approved by the Board, subject to the review and approval of the Attorney for the Town. Carried, 4 ayes, 0 noes.

Concerning the 2009 Town Budget, the Supervisor stated there was a Public Hearing held on Nov 5th for comments and input regarding the 2009 Budget where several residents spoke, and she would like to finalize the Budget at this time. Councilman Kenyon stated he would like to change the Fire District tax line to reflect a \$5,000.00 water source development amount, rather than \$15,000.00. The Supervisor stated that several residents felt that they are being re-taxed for \$15,000.00, and she has now backed that out of the appropriations line, and \$10,000 will be paid from the fund balance. Councilman Kenyon also stated he would like to save the Planning Board contractual line returned to at least \$2,500.00. Board members agreed to an amount of \$2,500.00 for that line, with the Supervisor reiterating that all contracts, regardless of the department, need to be reviewed by the Attorney for the Town before they are signed. Supervisor Balus stated that one of the other things that need to be looked at was the engineering account, #A1440.4. She felt that there may be other engineering that needed to be done, and felt that \$35,000.00 should be put in that line. Mr. Uhteg felt that all of the engineering should be taken out of the line items and put back in the engineering account. It was agreed that \$35,000.00 would be put in account #A1440.4. The Supervisor stated she would also like to move the Constable's rate of pay for next year to \$12.00 per hour and increase the duties; therefore she would like to raise the Constable line to \$3,500.00. There were no other changes to the budget. Therefore, the following resolution, to be known as Resolution #49 of 2008, was introduced by Kenyon, seconded by Phelps:

RESOLUTION #49 – 2008

RESOLVED, the Sardinia Town Board hereby approves the Preliminary 2009 Town Budget, including the above changes, as the 2009 Town Budget.

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

The Supervisor stated that the Town has received a proposal for a water testing program from Panamerican Environmental, Inc. Councilman Kenyon explained the testing procedure and the various costs, which would cost \$1,810.00 per well per test, and the testing would take place twice per year. After discussion, on a motion by Kenyon, seconded by Uhteg, the Board agreed to contract with Panamerican Environmental, Inc. to do two rounds of water testing on 5 to 8 wells, at a cost not to exceed \$31,600.00. Carried, 4 ayes, 0 noes. The Supervisor listed the wells to be tested, which included Helms, Squelch, Smith, Rolling Hills Golf Course, Buncy, and will have to check to see historically, what other wells were done. Mr. Kenyon stated that this tackles only part of the issue. He stated that he feels that the next Town Board coming in should utilize the knowledge of the landfill, and try to get a program going. The Supervisor stated that the next Board Committee she appoints to this will be asked to work with Tom Lewis. Mr. Kenyon stated he feels a well dedicated for water testing should be put in at Manion Park.

Concerning funding of the Seniors' Thanksgiving Dinner, Supervisor Balus stated that the Seniors' Thanksgiving Dinner has been scheduled for November 18th at the Hearth, and the Seniors are asking that the Town Board pay for only a portion, \$7.00, of the dinner, which costs \$12.50 per person. She stated they have informed her that the balance of the cost will be paid for by an anonymous donor. On a motion by Uhteg, seconded by Phelps, the Town agreed to pay \$7.00 per person toward the Senior Citizens Thanksgiving Dinner, carried, 4 ayes, 0 noes.

Supervisor Balus stated that Bill Barto of the Erie County Personnel Officer has informed her office that the positions of Clerk Typist PT and Caretaker PT (sub) have been eliminated. It will be necessary to create these two new positions. On a motion by Phelps, seconded by Uhteg, the Town Board created the following new positions:

2 - Clerk Typist Part-Time and 1 - Caretaker Part-Time (sub). Carried, 4 ayes, 0 noes.

Councilman Uhteg asked that a separate phone line be installed for the Town Court. He suggested that since there are so many court calls coming into the 496-8900 phone number. A motion was made by Uhteg, seconded by Phelps, the Board will look into getting a dedicated phone line for the Town Court. Carried, 4 ayes, 0 noes.

Supervisor Balus stated that it is her belief that Councilman Kenyon currently holds does not change over until January 1st, but the seat that will fill the vacancy created by the death of Councilman Bean may be able to be filed earlier. Attorney DiFilippo stated that he has researched the matter, and leagally, Mr. Montgomery cannot take the seat unit the election is certified. Mr. Kenyon felt the Board should seat him immediately, but Mr. DiFilippo felt it would not be legal. Mr. Montgomery will be seated at the December Town Board meeting, provided that the election has been certified at that point.

Under the question period:

Tom Lewis wanted to correct a statement made earlier concerning the flu vaccinations. He stated that Waste Management did pay for the flu vaccines from 2003 through 2006.

Gene Parzych stated that hometic.com picks up everything that is said at the meetings gets on hometic.com. The Supervisor and Councilman Uhteg stated that they cannot control a private site.

Nancy Farthing expressed her displeasure that Mr. Parzych was gaveled when another speaker earlier used the Lord's name in vain and was not gaveled.

The Supervisor stated that the next Regular Town Board Meeting will be held December 10th @ 7:30 PM, and the next Planning Board meetings will be held on Nov 19th @ 7:30 PM and Dec 3rd @ 7:30 PM.

Other Information included:

The Senior Thanksgiving Dinner will be held on November 18th at the Hearth, 12:30 PM.

There being no further business to come before the Board, on a motion by Phelps, seconded by Uhteg, the meeting was adjourned at 9:30 PM. Carried, 4 ayes, 0 noes.

Respectfully Submitted,

Town Clerk