

AGENDA
 REGULAR MEETING
 DATE: August 8, 2013
 TIME: 6:30 PM
 PLACE: SARDINIA TOWN HALL

Town Board Members

		Present	Absent
Supervisor:	Mary Hannon	_____	_____
Councilwoman:	Cheryl Earl	_____	_____
Councilman:	Daniel Miller	_____	_____
Councilman:	David Montgomery	_____	_____
Councilman:	Douglas Morrell	_____	_____

Others:

Town Clerk	Betsy A. Marsh	_____	_____
Hwy. Superintendent	Donald Hopkins	_____	_____
Attorney for Town	Linda H. Joseph	_____	_____

- I. Meeting called to Order by Supervisor Mary Hannon at _____ pm
- II. Roll Call
- III. Pledge of Allegiance
- IV. Moment of Silence
- V. Approval of Minutes -
- VI. Opening of Roof Bids - Set Special Meeting Date for Approval of Bids
- VII. Monthly Committee Department Reports

- | | |
|---|-------------|
| • Personnel/Administration | Mary/Cheryl |
| • Finance Planning and Economic Development | Mary/Cheryl |
| • Security and Disaster Preparedness | Dave |
| • Public Safety | Dave/Doug |
| • Buildings & Capital Projects | |
| Town Hall | Mary/Dave |
| • Parks | Cheryl/Dan |

- Highway Dave/Cheryl
- Recreation/Youth Cheryl/Mary
- Community Event/Celebrations Doug
- Community Service Dave/Dan
- Senior Citizens and Programs Doug/Mary
- Liaison to Landfill/Mining Mary/Doug
- Liaison to Fire Company Cheryl/Mary
- Liaison to Planning Board Doug
- Liaison to Veterans Mary
- Water Evaluation Committee Dave
- Street Lights Dan

Report from Highway Superintendent Donald Hopkins

Report from Attorney Linda Joseph

VIII. Public Comment Period

IX. Approval of Bills

**A. RESOLUTION # _____-2013
APPROVAL OF FUND TRANSFER**

WHEREAS, the Town of Sardinia Board approves the following transfer of funds:

TRANSFER FROM	AMOUNT	TRANSFER TO
SF3410.440 Dispatch	\$3090.74	SF3410.480 - Contract
SF3410.440 Dispatch	\$ 716.42	SF3410.491 - Apparatus

NOW, THEREFORE, BE IT RESOLVED, the Sardinia Town Board approves the above mentioned transfer of funds for 2013, and

Be it so resolved,

Motion:	Second:	Time:
Aye:	Nay:	Abstain:

X. Unfinished Business

**A. RESOLUTION # _____-2013
APPROVAL OF REQUEST FROM ARCADE EXPRESS SOCCER CLUB FOR USE OF
FIELDS DURING FALL OF 2013**

WHEREAS, the Sardinia Town Board has received a request from the Arcade Express Soccer Club to utilize the Sardinia Town Park soccer field for training and games during the months of September and October, 2013; and

WHEREAS, the Sardinia Town Board has referred this request to the Sardinia Youth Board for their review, and

WHEREAS, the Sardinia Town Board has received the recommendation from the Sardinia Youth Board to approve this request, and

NOW, THEREFORE, BE IT RESOLVED, the Sardinia Town Board hereby approves the request from the Arcade Express Soccer Club for use of the Sardinia Town Park soccer fields for training and games during the months of September and October, 2013, and

Be it so resolved,

Motion:	Second:	Time:
Aye:	Nay:	Abstain:

B. RESOLUTION # _____-2013

**APPROVAL OF PROPOSED AMENDMENT OF TOWN CODE TO AMEND CHAPTER
99 TO ADD A NEW ARTICLE IV, SECTIONS 99-12, 99-13, 99-14, 99-15, 99-16, 99-
17 AND 99-18**

WHEREAS, substantial data has already been collected through the efforts of the Town Supervisor, Town Tax Assessor, the Town Attorney and the Town's Accountant and the Town Supervisor has sent a letter dated July 1, 2013 to the citizens enclosing a survey and requesting

further input by August 1, 2013 regarding the proposed amendment of the Town Code to provide tax relief to the property owners in the Town of Sardinia; and

WHEREAS, the Town of Sardinia receives the vast majority of its revenues from tipping fees paid by Waste Management under a municipal host agreement and these fees have enabled the Town—by taking appropriate steps to ensure financial responsibility for its other expenses—to eliminate the Town portion of property taxes and to build up a general reserve fund of approximately \$2.5 Million and additional contractual commitments were obtained through negotiations conducted by the Town Supervisor and approved by the Town Board in 2013 to ensure the continuation of these revenues well into the future; and

WHEREAS, the Town’s accountant has informed the Town that the New York State Comptroller has expressed concern that the General Reserve Fund exceeds the limits permitted by law; and

WHEREAS, the data and information gathered to date indicate that it would be possible to provide a one-time tax relief totaling \$2,000,000 collectively to property owners in the Town of Sardinia and still retain a reserve of approximately \$500,000 which will be more than sufficient, particularly given the annual income in tipping fees and the average annual spending of \$1.5 Million by the Town as reflected in recent budgets set during the past four years to provide an adequate reserve and at the same time preserve the elimination of Town portion of property taxes; and

WHEREAS, the data and information collected to date indicate that the utilization of an appropriate portion (consisting of approximately \$2 Million) of the Town’s general reserve fund which now totals approximately \$2.5 Million for a one-year tax relief program will benefit the Town and constitute a “public purpose” by benefiting a number of public needs including

attracting and retaining family farms, young families, businesses and seniors and providing an economic stimulus to the local economy; and

WHEREAS, the Town Board has determined that it is in the public interest to hold a public hearing to obtain input from the Town residents and taxpayers as to an Amendment to the Town Code to add a new Article IV to Chapter 99 for the purpose of establishing a Tax Relief Program for 2013, and has held one on this date, August 8, 2013 at 6:00 p.m., and

WHEREAS, the Town has the authority, as recognized in New York State Comptroller Opinion 2008-3 (reported in Opinions State Comptroller 2008 No. 2008-3, 2008 West Law 4445786 (N.Y. St. Cptr.)) and the opinion of the New York State Appellate Division, Fourth Department, in *City of Rochester v. Chiarella*, 98 A.D. 2d 181 (1983) aff'd 63 N.Y. 2d 857, 482 N.Y.S. 2d 270 (New York Court of Appeals), to enact legislation to amend the Town Code to provide for the proposed tax relief program pursuant to New York State Town Law Municipal Home Rule Law, Section 10 (1) (ii) (a) (5) based upon a determination that the proposed tax relief program which will pay claims to citizens upon application is “just and equitable”—which is a determination to be made by the Town Board based on the facts and circumstances; and

WHEREAS, in taking into consideration all the facts and circumstances and information collected to date in connection with evaluation of this proposed tax relief, including without limitation the information presented at the August 8, 2013 public hearing, information provided by the Town’s accountants and other professional advisors and the information gathered by survey of the citizens of the Town, the Town Board has determined that the proposed tax relief program by amendment to the Town Code is just and equitable and will confer numerous public benefits upon the Town of Sardinia by reducing the tax burden for 2013 upon businesses, farms and qualified individuals, including enhancing commerce and small business, enhancing and

retaining the agriculture business of the community and the family-owned farms and will retain and attract young families and seniors.

NOW, THEREFORE, BE IT RESOLVED, the Town Board hereby determines that the proposed tax relief program by amendment to the Town Code is just and equitable and will confer numerous public benefits upon the Town of Sardinia referenced in the preceding Whereas Clauses and the Town Board hereby further approves the proposed amendment to the Town of Sardinia's Town Code to add a new Chapter IV to Article 99 with the following proposed sections which are proposed to establish a Tax Relief Program for the 2013:

§ 99-12. Title.

This Local Law shall be known and cited as the Town Relief Under Sardinia Taxes" law or "TRUST."

§ 99-13. Qualification for Tax Relief Provided For One Year.

- A. Tax Relief shall be provided for a single year, anticipated to be 2013, on Real Property situated within the bounds of the Town of Sardinia, Erie County, New York, owned by one or more persons and provided further that for purposes of qualification each business and/or household shall receive only one tax rebate so that those businesses or households holding more than one parcel may choose the particular parcel on which to base their tax rebate. The amount of the tax relief to be provided to each such business and/or household shall be up to 100% of the school tax levy paid on the parcel but not to exceed a total tax rebate for each such parcel of \$1,500.00 as the maximum amount.
- B. In addition to the qualifications set forth in paragraph § 99-13 A, the title of the property must be vested in the owner or all of the owners of the property, pursuant to the requirements of Section 467 of the New York State Real Property Tax Law prior to the date of making application for the Tax Relief.

§ 99-14. Application for Tax Relief.

An application for such the real property Tax Relief must be submitted by the owner or owners of the property to the Town Supervisor's Office within 30 days after the due date for

payment of the school taxes and thereafter, before a check will be issued, there must be submitted proof of timely payment of the total school tax levied. An application form shall be provided by the Town Supervisor. A failure to submit a timely application or failure to pay the school tax on a timely basis shall be an irrevocable waiver and disqualification for this Tax Relief payment.

§ 99-15. Expiration.

This law shall expire upon the payment of the one-time Tax Relief payment to all qualified tax payers, unless renewed by Town Board, in its sole discretion, and upon a finding of adequate funding in future years.

§ 99-16. Separability.

Should any section, paragraph, clause or phrase of this Local Law be declared unconstitutional or unjust for any reason by a court of competent jurisdiction, the remainder of this Local Law shall not be affected thereby.

§ 99-17. Inconsistency.

The tax relief provided hereunder is in addition to any other tax relief and/or exemption to which the property owner or owners are entitled.

§ 99-18. Effective date.

This Local Law shall take effect immediately.

Be it so resolved,

Motion:	Second:	Time:
Aye:	Nay:	Abstain:

Update on Reduced Speed Limit on South Protection Road

Memorial Volunteer Fire Company of Chaffee-Sardinia fundraising events scheduled for 2013:
Tool Raffle – September 8, 2013.

XI. New Business –

**A. RESOLUTION # ____-2013
APPROVAL OF APPOINTMENT FOR
MEMORIAL VOLUNTEER FIRE COMPANY OF
CHAFFEE-SARDINIA, NY, INC.**

WHEREAS, the Sardinia Town Board has received a request and an application for review to approve the appointment of Gerard J. Whittington, a Sardinia resident, as a member of the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc.; and

WHEREAS, after careful review of Gerard Whittington’s application, the Town Board of Sardinia has approved this request, and

NOW, THEREFORE, BE IT RESOLVED, the Sardinia Town Board hereby approves the request for Gerard Whittington Jr. to serve as a member of the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc.

Be it so resolved,

Motion:	Second:	Time:
Aye:	Nay:	Abstain:

B. RESOLUTION # ____-2013

**RESOLUTION TO FACILITATE ACCESS TO IDA PROGRAMS FOR THE CITIZENS
OF THE TOWN OF SARDINIA**

WHEREAS, New York State Legislators Patrick Gallivan and Dennis Gabryszak have introduced legislation in both houses of the New York State Legislature that would allow every Town in Erie County without access to an IDA to access the IDA program of neighboring Towns; and

WHEREAS, the Town of Sardinia has no IDA program and this legislation could make it possible for citizens of the Town to access the IDA program of the neighboring Town of Concord or other neighboring towns having such programs, thereby benefiting the citizens of the Town of Sardinia; and

WHEREAS, New York State Legislators Patrick Gallivan and Dennis Gabryszak have stated that for this legislation to go into effect it is necessary that the Town of Sardinia fill out the Home Rule Request Form transmitted to the Town by New York State Legislators Patrick Gallivan and Dennis Gabryszak.

NOW, THEREFORE, BE IT RESOLVED, that the Town Superintendent is hereby authorized by the Town Board to fill out the Home Rule Request Form transmitted to the Town by New York State Legislators Patrick Gallivan and Dennis Gabryszak and return it to them so that, if enacted, the legislation permitting citizens of the Town of Sardinia to access the IDA programs of other neighboring towns having such programs can go into effect,

Be it so resolved,

Motion:	Second:	Time:
Aye:	Nay:	Abstain:

**C. RESOLUTION # _____-2013
APPROVAL FOR SENIOR TRIP**

WHEREAS, the Sardinia Town Board has reviewed the proposed trip for the Sardinia Seniors to Geneseo, New York through Horizons Club Tours, and

WHEREAS, the Sardinia Seniors has presented this proposal at a cost not to exceed \$4000, and

WHEREAS, the Sardinia Seniors has funds in their budget line to cover this expense, and

NOW, THEREFORE, BE IT RESOLVED, the Sardinia Town Board hereby approves the Senior Trip to Geneseo, New York through Horizons Club Tours at a cost not to exceed \$4000, and

Be it so resolved,

Motion:	Second:	Time:
Aye:	Nay:	Abstain:

**D. RESOLUTION NO. ____-2013
REQUEST FOR A TRAFFIC STUDY AT THE INTERSECTION OF ROUTE 240 AND
GENESEE ROAD IN THE TOWN OF CONCORD**

WHEREAS, Rte. 240 and Genesee Roads are both County of Erie Highways; and

WHEREAS, that area of the Town of Concord has seen two very serious traffic accidents in the last two weeks alone, including one accident involving a Town of Sardinia resident; and

WHEREAS, as there have been other accidents at that intersection, and the Town of Sardinia has received many concerns from Town residents who have been involved in near accidents at that location; and

WHEREAS the Erie County Highway Department maintains a maintenance garage on Sibley Rd. and the East Concord Fire Department’s facility is located on the corner of Genesee Rd and Rte 240, thus helping to create a significant volume of large vehicle traffic; and

WHEREAS, the opening of the Concord Crest Golf Course a few years ago as well as a general increase in traffic from residents of Concord and Sardinia who utilize Genesee Rd. and Rte. 240 on their way to and from work; and

WHEREAS, school busses from the Springville Griffith Institute also utilize those routes in their daily runs; and

WHEREAS, the Town of Concord recognizes the fact that the County has done a previous traffic study on this intersection but the County’s efforts to improve the situation have not delivered the hoped for results; and

THEREFORE, BE IT RESOLVED, the Sardinia Town Board requests that a new traffic study be undertaken by Erie County, and that the County of Erie take whatever steps deemed necessary to increase the safety of those utilizing this intersection by utilizing the installation of traffic control devices, increased signage, or a possible round-about and furthermore, this study be undertaken in an expeditious manner.

Be it so resolved,

Motion:	Second:	Time:
Aye:	Nay:	Abstain:

**E. RESOLUTION # ____-2013
AUTHORIZATION FOR COURT DIVISION
TO APPLY FOR GRANT FROM JCAP**

WHEREAS, the Sardinia Town Justice department has requested to apply for a grant in the amount of \$26,000 from the JCAP; and

WHEREAS, the Sardinia Town Board has recognized the need for a new courtroom to comply with any safety issues that have been cited; and

WHEREAS, after determining that it is, indeed, possible to renovate the upstairs office areas for a new courtroom facility under the amount of the grant requested, it is hereby approved for the court division to apply for the \$26,000 grant in anticipation of the noted renovation; and

WHEREAS, the Sardinia Town Board makes note that any funds for this project will be spent through the State funds first and the Town fund's seconded, if needed, and

THEREFORE, BE IT RESOLVED, the Sardinia Town Board hereby authorizes the Court division to apply for the JCAP grant in the amount of \$26,000 in order to renovate the upstairs area for a new court room facility, and should this grant be denied, the Town of Sardinia has the right to rescind our application;

Be it so resolved,

Motion:	Second:	Time:
Aye:	Nay:	Abstain:

Receipt of Memorial Volunteer Fire Company of Chaffee-Sardinia, NY Reports as follows:
Minutes of June, 2013
Treasurer's Report of June 2013

XI. Executive Session

XII. Motion to Adjourn

Be it so resolved,

Motion:	Second:	Time:
Aye:	Nay:	Abstain:

