

## 2-14-2013 – REGULAR BOARD MEETING

Present:

Councilman Cheryl L. Earl  
Councilman David L. Montgomery  
Councilman Douglas J. Morrell  
Supervisor Mary L. Hannon

Absent:

Councilman Daniel L. Miller

Also Present:

Attorney for the Town Linda Joseph  
Town Clerk Betsy A. Marsh  
Highway Superintendent Donald W. Hopkins  
Approx. 40 guests

The Sardinia Town Board held its Regular Town Board meeting for February on February 14, 2013 at the Sardinia Town Hall/Community Center. Supervisor Hannon called the meeting to order at 6:30 PM, with the Pledge to the Flag and a moment of silence.

The Town Clerk has submitted the minutes of the January 10, 2013 Organizational Meeting, and the January 10, 2013 Regular meeting. Those minutes were approved as submitted on a motion by Montgomery, seconded by Morrell, and carried, 4 ayes, and 1 absent, 0 noes.

Departmental Reports included:

Supervisor Hannon reported that audits had been performed of the Supervisor, Justices, and Town Clerk/Tax Collector, and the auditor will be here at the March meeting with the reports; She stated that she and the other Councilmen, with the exception of Councilman Miller, attended the National Incident Management System training at the Erie County Fire Training Center in Cheektowaga, and stated that Councilman Montgomery can report on that later; She attended the meeting of the Erie County Association of Local Governments, and stated they were trying to promote the repeal of the NYS Safe Act, and there is a resolution to do so later in the agenda on which she welcomed Board comment; She met with our new Assemblyman David DiPietro and got some information regarding the Safe Act from him; She met with representative of Time Warner Sharon Hanson regarding the Town's Time Warner contract, which will be up in 2015, who gave a proposal of what they are looking at to upgrade, nothing of which is favorable for the Town. She stated she asked for an updated map of service areas to see if there are houses which could be included; She and Councilman Earl will be meeting with a liaison from the Sheriff's office tomorrow to touch base and see if there are any issues we can address; Regarding contract negotiations with the Fire Company, the Attorney for the Town will report on that; She and Councilman Montgomery met with Waste Management personnel on the Valley Fill to go over that a little bit more. The Supervisor stated she received a phone call from the Assessor asking that the Board approve a temporary alternate member for the Board of Assessment Review due to medical concerns for two members of that Board, to make sure the Town is covered on that Board, and there is necessary training involved. She asked if the Board would be agreeable to appointing a temporary alternate to that Board, and asked that Jim Montgomery be appointed to that spot. **On a motion by Earl, seconded by Morrell, Jim Montgomery was appointed as temporary alternate member of the Board of Assessment Review. Carried, 4 ayes, and 1 absent, 0 noes.**

Councilman Morrell stated that he attended the workshop on NIMS with the other Councilman and briefly described the system and how it works. He stated he learned a lot. He stated he also attended the January Planning Board meeting as Board liaison.

Councilman Montgomery reported that HEAP and Food For All were here on January 31<sup>st</sup> and they had a good turnout despite the bad weather. He stated he attended the Erie County Water Quality meeting and took care of the survey that was due in January. He stated the committee is applying for grant money, but there is no money to be given out. Mr. Montgomery stated that in regards to Gowanda, the Army Corps of Engineers is studying what they can do with a couple of the creeks over there.

Councilman Earl reported that she met the Youth Board last Thursday, and there are still 20 Colden Tubing tickets available, and the cost is \$4.50 for Town residents. She stated there is no set date to go, just contact Mrs. Marshall if you'd like to take your kids to Colden Tubing. She stated they would like to start running ads for lifeguards and Recreation staff during the 1<sup>st</sup> week in March while the college kids are home. She stated that SASI will be using the gym the week of February 18 through February 24. She reminded that the Friday Night Rec program is cancelled if Pioneer Schools are closed due to weather. Councilman Earl stated she had attended the Southtowns Community Enhancement Coalition Farm Trail meeting this morning. She stated she e-mailed Councilman Miller concerning information for the brochure that he has, and stated they would like to go to print in the next couple of weeks. She stated that Holland is not a participant, but includes the Eden Valley and the large produce farms. She stated that if someone wants to be included in that, to give her or Councilman Miller a call.

Highway Superintendent Hopkins stated that the pool lift was supposed to be put in last week but it keeps snowing. Councilman Earl stated they are scheduled now for next week. Mr. Hopkins stated that, concerning the flags and poles that need replacement due to the wind storms in October, he received a flier in the mail from a company offering flags for \$23.80 each if you purchase more than 3 flags, and combination flags and poles for \$27.50 each if you purchase more than 12. The Highway Superintendent stated he also received a notice for the 2013 Cornell Highway Spring Workshop. He stated he has not gone before, but there are 3 in our area, two of which he would like to attend, including Roadway Drainage and Powers and Duties of Local Highway Officials. Mr. Hopkins stated there is one in East Aurora, and one in

Salamanca, the sessions each cost \$50.00 per person, and are being held on April 9<sup>th</sup> and April 16<sup>th</sup>. **On a motion by Earl, seconded by Montgomery, the Board approved the Highway Superintendent's attendance at the workshops. Carried, 4 ayes, 1 absent, 0 noes.** Mr. Hopkins informed that they had a truck breakdown this past weekend, and it was the same truck, the Peterbilt, which had been involved in the head-on accident in December 2009. He explained that now, the driver's side motor mount was completely broken, and he meet with the original claims adjuster from the accident, who feels that this was caused by the original accident, and feels it will all be covered, saving the Town \$4000.00 or \$5,000.00. Mr. Hopkins then discussed the Highway Garage roof. He stated he got in touch with Engineer Mike Metzger, who was on hand to present a proposal to the Board. Mr. Metzger stated he has been an engineer for over 30 years and the engineer for the Town of Alden for 15 years. He stated he has been to the Highway Garage and looked over the necessary work, as well as the roof system and feels that the roof system is well suited. He stated that his proposal includes putting together the bid specs, assisting in the bid process, including answering any questions, making a recommendation for a contractor, assisting through the construction process if the Town wishes. Mr. Metzger stated the proposal would also include making sure all bonds and other paperwork is in order and signed, site visits, final inspections, and closeout of paperwork and prevailing wage certification. He stated he is familiar with all aspects of such a project and deals with these things on a daily basis. Attorney Joseph asked if he handles OSHA compliance and liability issues, and he stated that is 100% the contractor's responsibility, and he reminds them of that. Supervisor Hannon asked if he has every dealt with this type of roof system before, and Mr. Metzger stated he has, and the Town of Wilson is currently looking to put one in their Town. He stated it has a good track record. Councilman Montgomery asked if Mr. Metzger has been on the Highway Garage roof, and Mr. Metzger stated he hasn't yet, but wants to take a look. Mr. Metzger was asked if the Town would be better off just replacing the tin on the roof, and he replied that he would reserve opinion on that. Councilman Morrell asked if we could get a cost for both types of repair, and Mr. Metzger stated the Town could certainly do so, and also reminded that the system in question would add insulation, reducing heating costs. The Supervisor asked the Board their feelings on having Metzger Engineers handle the entire project, as outlined on their proposal, for a total of \$11,000.00. All were in agreement to have them handle the project, and on a motion by Earl, seconded by Montgomery, the Board accepted the proposal from Metzger Civil Engineering, PLLC, in the amount of \$11,000.00. Carried, 4 ayes, 1 absent, 0 noes.

Attorney for the Town Linda Joseph reported that she has been working on the firemen's contract negotiations with Fire Company Attorney Mark Butler. She stated there has been significant progress, with only a few things that remain open. She stated there has been a bit of a delay because both she and Mr. Butler have been away. She stated that Mr. Butler will be back February 25<sup>th</sup> and he feels they will have an agreement in time for the March 15 payment due date. Ms. Joseph stated that if there is no new contract by March 15<sup>th</sup>, the rollover contractual payment will be lower than if there was a new contract. She stated that both she and Mr. Butler feel that after he gets back, they can get a proposed contract and can then have a public hearing and a final contract in place before the payment due date. Attorney Joseph also stated that an amendment is needed to the Town Code as a follow-up to the Mining Overlay amendment to the Zoning Ordinance to enable the Code Enforcement Officer to perform inspections and collection of permit fees and to insure compliance with the farmland mitigation clause. She stated she has provided language for the Board to look at later in the agenda and a resolution to start the process to enact a new provision in the Town Code. She stated she has also been working on the issue concerning the unsafe structure issues for the two abandoned parcels where there are decaying buildings creating a hazard. She stated that Town Board members have been working with her on that and tonight there is a resolution on the agenda concerning the issuance of notices. She stated we have been trying to work with the County to get the tax liens foreclosed on. She stated that may put the Town in a position to then sell those properties, and there may be adjoining property owners who may purchase from the County and do the demolition themselves, which would be good for the Town, because the Town would not have to incur that cost. Ms. Joseph stated they are expecting to make contact with the County next week. She stated that if the County will not foreclose, the Town would have to purchase the tax lien and do the demolition, and would then have to sell at a higher cost. She stated there will be no final decision tonight because the notices will have to go out and a public hearing held, and by then the Town will know what the status is with the County and their foreclosure proceedings. She stated the Town would like to move forward because the buildings are a hazard. Ms. Joseph stated they also have sent a letter out today to Manfred Koch's engineer explaining that the Town Board cannot procedurally go forward with Mr. Koch's proposed re-zoning application until the SEQRA issues raised by the DEC have been addressed. She stated that a changeover with engineers is part of the problem, and the letter urges that he go as expeditiously as possible to have his engineer address these problems with the DEC, but right now, the ball is in Mr. Koch's corner. She stated that when these are handled with the DEC, the Planning Board can then be in a position to make its Findings Statement, and the Town Board can then be in a position procedurally to hold the proper public hearings and make sure everyone's interests are addressed.

#### Under Public Comments:

John Schiener of Sardinia stated he noticed in the agenda there is a resolution to approve the Fire Company's use of the Town Park for its Carnival, and due to the positive comments made by the Attorney for the Town concerning the status of negotiations, he urged the Board to pass that resolution. He also asked about the large billboard going up on Rt. 16 and asked if they had a permit. The matter will be reviewed.

Robert Church of Sardinia stated he had received a phone call about the State's Safe Act, and stated that many other Town's are passing resolutions to ask that it be repealed, and urged the Town to do the same. He stated he had also received a call asking about the why the Town Hall offices were closed last Friday. The Town Clerk stated she could speak to why her office was closed, and stated that she was not feeling well, it was freezing rain, and all three school districts within the Town were closed due to weather, so she made the decision not to open. He stated that she should be open since it is tax time, and she informed that it was not tax collection time last Friday, and that the tax bills had just gone out on Monday, February 11<sup>th</sup>. The Supervisor stated that after the previous week's treacherous weather, everyone was gun shy. Possible solutions to advertise when the building is closed were discussed, no decision was made.

The Supervisor stated there are end of the year transfers within the 2012 Budget that are necessary. The following resolution, to be known as Resolution #5 of 2013, was then moved for adoption on a motion by Earl, seconded by Morrell:

**RESOLUTION #5 - 2013  
APPROVAL OF FUND TRANSFER**

**WHEREAS**, the Town of Sardinia Board approves the following transfer of funds for the 2012 year end:

<u>TRANSFER FROM</u>	<u>AMOUNT</u>	<u>TRANSFER TO</u>
A1110.110 Court Clerk	\$ 6785.04	
A1620.420 Heat	\$ 8224.72	
A1410.110 Deputy TC	\$ 2196.50	
	\$ 1.00	A1010.100 – Town Board
	\$ 1.00	A1110.101 – Town Justice
	\$ 100.00	A1110.410 – Town Prosecutor
	\$ 2899.62	A1420.400 – Attorney
	\$ 450.00	A1620.440 – Repairs
	\$ 341.24	A1620.490 – Other Expenses
	\$ 60.70	A1650.100 – Pool PS
	\$ 626.00	A3620.100 – CEO PS
	\$ 31.20	A5132.430 – Garage, Phone
	\$ 587.41	A5182.420 – SL Entire Town
	\$ 351.35	A6772.410 – Meals on Wheels
	\$ 49.75	A7110.401 – Parks Utilities
	\$ 9417.61	A8090.400 – Enviro Control
	\$ 314.17	A9010.800 – State Retirement
	\$ 1974.61	A9040.800 – Workers Comp

<u>TRANSFER FROM</u>	<u>AMOUNT</u>	<u>TRANSFER TO</u>
A1990.400 Contingency	\$ 9408.00	A1420.400 – Attorney
A7140.400 Playground	\$ 18.00	A7110.400 – Parks
A9060.800 Hospital	\$ 420.00	A9050.800 – Unemployment
DA9010.800 State Retire	\$ 4830.63	
	\$ 4607.42	DA9040.800 – Workers Comp
	\$ 223.21	DA9089.800 – Medicare
SF201 Fire Cash	\$ 90,241.00	A201 – General Cash
SL5182.421- Sar Ham	\$ 277.90	
	\$ 119.00	SL5182.413 – Chaffee Ham
	\$ 158.90	SL5182.424 - Timeless

**NOW, THEREFORE, BE IT RESOLVED**, the Sardinia Town Board approves the above mentioned transfer of funds for **2012** along with any other transfers that are necessary for the year end.

**Upon roll call vote: Earl, aye, Miller, absent, Montgomery, aye, Morrell, aye, Hannon, aye. So Resolved, 4 ayes, 1 absent, 0 noes.**

The Supervisor explained that there are two Abstracts, the first is Abstract #15 of 2012, including vouchers #13 through #16, and totals \$15,619.11, all of which is General Fund expenditure; and the second is Abstract #2 of 2013, including vouchers #16 through #102, totaling \$77,838.50, of which \$33,955.11 was General Fund expenditure, \$17,656.09 was Highway Fund expenditure, \$25,1036.40 was Fire District expenditure, and \$1,120.90 was Lighting District expenditure. **On a motion by Earl, seconded by Montgomery, those Abstracts were approved, carried 4 ayes, 1 absent, and 0 noes.**

In Unfinished Business:

Supervisor Hannon stated that the Highway Superintendent had submitted the 2013 Agreement to Expend Town Highway Funds at the last meeting, but the Board had inadvertently not formally approved it. The following resolution, to be known as Resolution #6 of 2013, was moved for adoption on a motion by Earl, seconded by Morrell:

**RESOLUTION #6 - 2013  
APPROVAL OF AGREEMENT TO SPEND TOWN HIGHWAY FUNDS**

**WHEREAS**, the Sardinia Town Board has reviewed the agreement to spend town highway funds presented by Highway Superintendent Donald Hopkins at the January 2013 board meeting, and

**WHEREAS**, the Sardinia Town Board approves the request as presented, and

**NOW, THEREFORE, BE IT RESOLVED**, the Sardinia Town Board hereby approves the Agreement to Spend Town Highway Funds presented by Highway Superintendent Donald Hopkins for the year 2013.

**Upon roll call vote: Earl, aye, Miller, absent, Montgomery, aye, Morrell, aye, Hannon, aye. So Resolved, 4 ayes, 1 absent, 0 noes.**

Under New Business:

Supervisor Hannon stated that the Town Board has received a Special Use Permit application for a cat rescue shelter. She stated that a couple of comments had been received, both for and against, which have been addressed. She stated that this resolution would be as recommended by the Planning Board. She asked if there were any other comments anyone else wished to make. There were none, and she stated she thinks this a great idea and is grateful there are people who would take this on. Attorney Joseph stated that the permit would go only with the applicant and not with the land, and the next step is to get all the necessary permits from the Code Enforcement Officer. The following resolution, to be known as Resolution #7 of 2013, was then moved for adoption by Earl, seconded by Morrell:

**RESOLUTION #7 - 2013  
APPROVAL OF SPECIAL USE PERMIT FOR CAT SHELTER**

**WHEREAS**, the Sardinia Town Board has reviewed the application for a Special Use Permit from Dawn Place (A Place for Cats, Inc. ) to operate a cat kennel at Olean Road, SBL No. 279.15-1-21.12, Chaffee, NY 14030, and

**WHEREAS**, the Sardinia Planning Board has reviewed this application prior to this date, and has recommended approval of this Special Use Permit, subject to the following conditions:

1. The kennel shall be operated as a cat rescue shelter and the maximum number of cats that may be kept on the premises at any one time shall not exceed 40 cats.
2. The Special Use Permit shall not run with the land and upon sale or transfer of title to the premises, the permit shall expire, and
3. The property owner obtaining all permits and approvals required under the Town's zoning ordinance and/or state law.

**NOW, THEREFORE, BE IT RESOLVED**, the Sardinia Town Board hereby approves the Special Use Permit submitted by Dawn Place (A Place for Cats, Inc.) to operate a cat kennel at Olean Road, SBL No. 279.15-1-21.12, Chaffee, New York 14030 with the above noted conditions.

**Upon roll call vote: Earl, aye, Miller, absent, Montgomery, aye, Morrell, aye, Hannon, aye. So Resolved, 4 ayes, 1 absent, 0 noes.**

Supervisor Hannon stated that the next resolution is approval of the new mileage rate, issued by the Internal Revenue Service, for reimbursement to Town employees, increasing the rate by a penny. The following resolution, to be known as Resolution #8 of 2013, was moved for adoption by Earl, seconded by Montgomery:

**RESOLUTION #8 - 2013  
AMDENMENT TO MILEAGE RATE REIMBURSEMENT**

**WHEREAS**, the Sardinia Town Board has approved the mileage rate of 55.5 cents per mile for reimbursement to individuals approved through the Town Board; and

**WHEREAS**, the Internal Revenue Service has recently issued new standard mileage rates to 56.5 cents per mile; and

**NOW, THEREFORE BE IT RESOLVED** , the Sardinia Town Board hereby approves the increase of the standard mileage rate to 56.5 cents per mile for any Sardinia Town officials, employees of the Town, and members of the Meals on Wheels volunteer program who perform business for the Town.

**Upon roll call vote: Earl, aye, Miller, absent, Montgomery, aye, Morrell, aye, Hannon, aye. So Resolved, 4 ayes, 1 absent, 0 noes.**

The Supervisor stated that the next resolution is to amend the Safe Act. Councilman Montgomery stated that the Erie County Legislature just passed a resolution today to repeal the gun control legislation, and noted other elected and appointed officials that are in favor of repealing it, including Assemblyman DiPietro, Sheriff Howard, and Mental Health Association Director Ken Housnek. The controversial legislation and how it was passed by the State was discussed. The following resolution, to be known as Resolution #9 of 2013 was then moved for adoption on a motion by Montgomery, seconded Earl:

**RESOLUTION #9 - 2013  
RESOLUTION TO AMEND NY SAFE ACT**

**WHEREAS**, The Town Board of the Town of Sardinia, Erie County, New York, and

**WHEREAS**, On Monday January 14<sup>th</sup>, 2013 the rights under the second Amendment of our Constitution was infringed on without due process, and

**WHEREAS**, The Gun Control Bill (S.2230) known as NY SAFE Act was rushed through the Senate & Assembly without a single Public hearing or input from the various Law enforcement agencies located around our State, and

**WHEREAS**, Even the State lawmakers did not have time to review the bill as presented leaving questions about implementation and regulation of this new law, and

**WHEREAS,** This law should focus on increasing penalties for criminals who use firearms to harm and threaten law abiding citizens and address the issues of mental illness related to violence, and

**WHEREAS,** The Town of Sardinia realizes that NY SAFE Act, gun control law must be repealed and replace the restrictive parts of the enacted law, and

**NOW THEREFORE BE IT RESOLVED,** that the Town of Sardinia urgently asks Governor Andrew M. Cuomo & the Legislative leaders to suspend this law as soon as possible and to look at all of the aspects of gun control using the proper legal procedure to bring about a law that will address gun control in a more logical manner, focusing on the real issues related to gun control – a law that will strengthen the effect on public safety and not infringe upon our constitutional rights.

**RESOLVED,** that a certified copy of this resolution be forwarded to:

Honorable **Governor Andrew M. Cuomo**, Honorable Senate Majority Leader **Dean Skelos**, Majority Leader of Independent Democratic Caucus **Jeff Klein**, Honorable Senate Minority Leader Andrea Stewart-Cousins, Honorable Speaker of the Assembly **Sheldon Silver**, Honorable Leader of the Assembly Joseph Morelle, Honorable Minority Leader of the Assembly **Brian Kolb**, and the Western New York Delegation and Erie County Legislators.

**Upon roll call vote: Earl, aye, Miller, absent, Montgomery, aye, Morrell, abstained, Hannon, aye. So Resolved, 3 ayes, 1 absent, 1 abstained, 0 noes.**

Supervisor Hannon stated that the Girl Scouts have requested use of the Town Hall, and this has been approved already by the Youth Board. The following resolution, to be known as Resolution #10 of 2013, was moved for adoption on a motion by Earl, seconded by Montgomery:

**RESOLUTION #10 - 2013  
APPROVAL OF REQUEST FROM GIRL SCOUTS OF WNY  
ENCHANTED MOUNTAINS NORTH EAST FOR USE OF TOWN HALL**

**WHEREAS,** the Sardinia Town Board has received a request from the Girl Scouts of WNY Enchanted Mountains North East to utilize the Town Hall on both Sundays, March 10 and March 17, 2013 for the Mother/Daughter event and a family event; and

**WHEREAS,** the Sardinia Youth Board has reviewed and approved this request, noting that this organization is a not-for-profit, which waives the rental fee; and

**WHEREAS,** this organization has provided the Town with a Certificate of Insurance; and

**NOW, THEREFORE BE IT RESOLVED,** the Sardinia Town Board hereby approves the Girl Scouts of WNY Enchanted Mountains North East request to utilize the Town Hall on March 10 and March 17, 2013 for their Mother/Daughter event and family event with no rental fee applicable.

**Upon roll call vote: Earl, aye, Miller, absent, Montgomery, aye, Morrell, aye, Hannon, aye. So Resolved, 4 ayes, 1 absent, 0 noes.**

Supervisor Hannon stated that the next resolution was for the Carnival, and she stated she explained to the Fire Company President that they did not say no to it, just put it on hold, trying to get a signed contract and move things along. She noted to him that last year, they never approved the use of the Park until March, so it's not like they were holding it off very long. She added that they don't want to hold up the Fire Company from being able to get their vendors in place, but it was felt that they could not waive the fees for the Park until there is a signed contract and pending a Certificate of Insurance. She stated that if there is a signed contract, at that time, the Fire Company can then apply for a waiver of the fees for use of the Park. The following resolution, to be known as Resolution #11 of 2013, was then moved for adoption by Montgomery, seconded by Earl:

**RESOLUTION #11- 2013  
APPROVAL OF FIREMEN'S REQUEST FOR USE OF  
TOWN PARK, BATHROOMS, AND EXISTING  
PORT-A-JOHNS FOR FIREMEN'S CARNIVAL**

**WHEREAS,** the Sardinia Town Board has received requests from the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc. for use of the Town Park, bathrooms at the park, and the existing Port-a-Johns for their annual Firemen's Carnival running from June 24, 2013 through July 3, 2013, and

**WHEREAS,** the Sardinia Town Board continually supports this organization and event, and

**THEREFORE, BE IT RESOLVED,** the Sardinia Town Board hereby approves the request from the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY Inc. for use of the Town Park, the bathrooms at the park, and the exiting Port-a-Johns for their annual Firemen's carnival from June 24, 2013 through July 3, 2013, with the stipulation that there will be no waiver of park fees unless there is a signed contract between the Fire Company and the Town, and pending a Certificate of Insurance.

**Upon roll call vote: Earl, aye, Miller, absent, Montgomery, aye, Morrell, no, Hannon, aye. So Resolved, 3 ayes, 1 absent, 1 no.**

The Supervisor stated that the next resolution is to approve a proposed amendment to the Zoning Ordinance Mining Overlay District, Code Section 44-3, in order to provide inspection authority to the Code Enforcement Officer and to allow mining permit fees. She stated that the Board will need to hold a Public Hearing on the amendment and stated it would be held on March 14, 2013, at 6:00 PM. The following resolution, to be known as Resolution #12 of 2013, was moved for adoption on a motion by Montgomery, seconded by Earl:

#### **RESOLUTION #12 - 2013**

##### **SETTING A PUBLIC HEARING ON THE PROPOSED AMENDMENT OF TOWN CODE SECTION 44-3 TO PROVIDE INSPECTION AUTHORITY TO THE TOWN CODE ENFORCEMENT OFFICER WITH RESPECT TO THE MINING OVERLAY AMENDMENT TO THE TOWN ZONING ORDINANCE**

**WHEREAS**, the Town recently amended § 5-17.1 (A) (1) (j) of the Town's Zoning Ordinance to create a mined land overlay district subject to certain conditions and there needs to be an addition to the Code Enforcement Officer's authority under § 44 of the Town Code to address new inspection duties arising out of said amendment to the Town's Zoning Ordinance as described in more detail below;

**WHEREAS**, the Town Board has under consideration an amendment to the Town Code to authorize the Code Enforcement Officer to conduct an annual review and report to the Town Board each year on whether any property owner conducting mining within the Town pursuant to §5-17.1 (A) (1) (j) of the Town's Zoning Ordinance continues to comply with the eligibility requirements under the Town's Zoning Ordinance and whereas the Town Board has under consideration the imposition of a fee for such inspections on the property owner using the land for mining purposes rather than imposing such cost on the tax payers;

**WHEREAS**, the proposed change to Section 44-3 (a) of the Town Code of the Town of Sardinia is would add a new subparagraph 12 to authorize the Code Enforcement Officer to do the following: **"to conduct on an annual basis a review of any mining operations within the Town for ongoing compliance with the eligibility requirements under Section 5-17.1 (A) (1) (j) of the Town's Zoning Ordinance, and to report to the Town Board annually. The review shall include, but is not limited to (i) obtaining records from the property owner and the New York State Department of Environmental Conservation to confirm that each mining operation has a valid permit from the NYDEC and that there have been no major violations of said permit in the past year; (ii) that the property owner is in compliance with all the terms and conditions of said permit with respect to hours of operations, ingress and egress, noise levels at the perimeter and other similar conditions which affect the quality of life of neighboring property owners; and (iii) to confirm that any mitigation of prime farmland to replace the lost prime farmland is performed and that the acreage benefited or improved is located in the Town of Sardinia. The Town is authorized to assess a fee based on the reasonable cost of conducting said inspection. The amount of said fee shall be set initially at \$200. The Town Board may from time to time amend said fee by resolution."**

**NOW, THEREFORE, BE IT RESOLVED**, that a public hearing be scheduled for 6:00 PM on March 14, 2013, on an amendment to the Town Code which would authorize to conduct on an annual basis a review of any mining operations within the Town for ongoing compliance with the eligibility requirements under Section 5-17.1 (A) (1) (j) of the Town's Zoning Ordinance, and to report to the Town Board annually with the review to include, but not be limited to (i) obtaining records from the property owner and the New York State Department of Environmental Conservation to confirm that each mining operation has a valid permit from the NYDEC and that there have been no major violations of said permit in the past year; (ii) that the property owner is in compliance with all the terms and conditions of said permit with respect to hours of operations, ingress and egress, noise levels at the perimeter and other similar conditions which affect the quality of life of neighboring property owners; and (iii) to confirm that any mitigation of prime farmland to replace the lost prime farmland is performed and that the acreage benefited or improved is located in the Town of Sardinia. The proposed amendment to § 44-3 would also authorize the Town to assess a fee based on the reasonable cost of conducting said inspection which will initially be set at \$200, but which can be amended from time to time amend by Board resolution.

**Upon roll call vote: Earl, aye, Miller, absent, Montgomery, aye, Morrell, aye, Hannon, aye. So Resolved, 4 ayes, 1 absent, 0 noes.**

The supervisor stated that the next resolution regards the unsafe buildings. She stated that a packet has been received from the CEO, with pictures and documentation of the unsafe properties. She stated that this resolution will start the ball rolling. Attorney Joseph reiterated what she had reported earlier, stating this is the first step in the process, trying to issue notices to the owners of the two abandoned parcels and then a hearing has to be held. In the intervening period, we will have the County on board with the foreclosures, so the Town can convey good title for prospective owners. She stated that if we can't get the County on board, then the town would have to expend the money to do the demolition, and the Town could do a do a foreclosure and recover costs by selling the property at a higher cost. Ms. Joseph stated they are expecting to make contact with the County next week. She stated there will be no final decision tonight, all we are doing is setting up the notice to go out and setting the public hearing on it. She is hoping that by the time that is done, the County will be on board, and then it will be fairly simple. Otherwise, we'll still have the opportunity to make decisions as to what to do. After brief discussion, the following resolution, to be known as Resolution #13 of 2013 was moved for adoption on a motion by Morrell, seconded by Earl:

#### **RESOLUTION #13 - 2013**

##### **ISSUANCE OF NOTICE AND ORDER FOR UNSAFE BUILDINGS**

**WHEREAS**, Pursuant to Chapter 46 of the Town of Sardinia Code the Town of Sardinia Code Enforcement Officer has notified that the buildings located at 12059 Olean Road and 12880 Schutt Road are dangerous and unsafe, and,

**WHEREAS**, the Code Enforcement Officer has recommended that the Town Board issue an Order and Notice of the owners of these properties pursuant to Section 46-5 of the Town of Sardinia Code directing the property owners to demolish and remove the unsafe buildings;

**NOW, THEREFORE, BE IT RESOLVED**, the Sardinia Town Board hereby directs that the Code Enforcement Officer serve the attached notice on the property owners, in the manner prescribed in Section 46-4 of the Town Code, and that the Town Attorney file a copy of said notice with the Erie County Clerk's Office; and,

**BE IT FURTHER RESOLVED**, that the deadline for the owners to complete the removal is set at April 1, 2013, and that if the removal is not complete by that date a public hearing shall be held on April 11, 2013 to determine whether the Town shall remove the buildings and to assess all of the cost and expense of the proceedings to remove the buildings against the land on which the buildings are located.

**Upon roll call vote: Earl, aye, Miller, absent, Montgomery, aye, Morrell, aye, Hannon, aye. So Resolved, 4 ayes, 1 absent, 0 noes.**

The Supervisor stated that, concerning the Firemen's LOSAP, the Board now must officially approve the active participants in the LOSAP Program for 2012. She stated that she believes this is the last year that the Town will not have to pay into the program because of the previous plan. She stated that she received an e-mail from Rocco Garramone and has now received the updated list by Certified Mail for those who earned 50 or more points in 2012, who are considered, therefore, to be active participants in the LOSAP Program. She stated there are some individuals who have not earned the 50 points, so those would not be considered active participants. **On a motion by Earl, seconded by Montgomery, the Board approved the Fire Company's roster of active participants in the LOSAP Program, as per the Fire Company's roster list of members who earned 50 or more points in the program. Carried, 4 ayes, 1 absent, 0 noes.**

Supervisor Hannon stated that, concerning the Waste Management application for a Special Use Permit for its proposed Valley Fill Expansion, there were no public comments this time at the Public Hearing held earlier this evening, however, because the Town is still looking for the Supplemental Findings Statement and the Notice of Complete Application, there will be no decision on the application this evening, and another Public Hearing will be held on the matter on March 14, 2013 at 6:15 PM.

The Supervisor stated she has received two letters from County Executive Polencarcz regarding the CDBG grant funding, the first letter was to inform that funding for the Town's 3<sup>rd</sup> priority project, the Rural Transit Van Program, was approved, and a second letter informed that funding for the Town's 1<sup>st</sup> priority project, the ADA improvements at the Park, was not awarded.

Supervisor Hannon informed that the Town is in receipt of the Annual Town Historian's report for 2012 from Town Historian Leo McCarthy, and that the report is available for review in the Town Clerk's office.

The Supervisor stated the Board does need to have an Executive Session this evening, with 2 items to discuss concerning litigation and on the Host Agreement with Waste Management. **On a motion by Montgomery, seconded by Morrell, the Board moved into Executive Session at 7:23 PM.**

The Town Board returned to Regular Session at 7:54 PM on a motion by Montgomery, seconded by Earl.

There being no further business to come before the Board, on a motion by Earl, seconded by Montgomery, the meeting was adjourned at 7:55 PM. Carried, 4 ayes, 1 absent, .0 noes.

Respectfully Submitted,

Town Clerk