

## 7-8-2009 – REGULAR TOWN BOARD MEETING

Present:

Councilman Mary L. Hannon  
Councilman David L. Montgomery  
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. 30 guests

The Sardinia Town Board held its regularly scheduled Board meeting for July on July 8, 2009 at the Sardinia Town Hall/Community Center. Supervisor Balus called the meeting to order at 7:30 PM, with a Moment of Silence and the Pledge to the Flag.

The Town Clerk has submitted the minutes of the June 10, 2009 Regular Town Board meeting. Councilman Hannon stated that she would like a notation made to the minutes that the information concerning the Firemen's LOSAP program was not available to her before the vote. The minutes, with that notation added, were then approved and filed on a motion by Hannon, seconded by Phelps, and carried, 5 ayes, 0 noes.

The Supervisor's report included:

- Congratulations to the Fire Company for another successful carnival.
- Attending the Tiny Tots program graduation on June 13<sup>th</sup>.
- Wrapping up the Annual Audit with Freed, Maxick & Battaglia and noting that the reports will be available at the next meeting.
- Sending the LOSAP checks and wrapping up additional paperwork required. Contracts are on file in Supervisors Office
- Meeting with Tom Lewis from WM in an effort to better understand the Borrow Pit Application.
- Receiving a Dividend Check in the amount of \$15,610.10 from Lovell Safety Management Co. as a result of a safe record with the worker's compensation program.
- Calling for a status report on County roads and receiving a message with information that Matteson Corners Rd. will be paved from Pratham Rd. to Warner Gulf Rd., hopefully starting the first week in August; the rest of Matteson Corners Rd. from Warner Gulf to Savage Rd. will be patched, oiled, and chipped; Genesee Rd., which is in seriously poor condition, will be paved; and Warner Gulf Rd. from Allen Rd. to Matteson Corners Rd, will be patched, oiled and chipped.

Requests were received as follows:

- From Recreation Director Jim Helmicki for \$500 for Summer Rec Field Trip for the Arcade and Attica Railroad on July 22<sup>nd</sup>. Councilman Phelps noted that the approval has already been granted, but a check is needed because the A&A only accepts payment at the time of departure.
- From Buildings and parks Caretaker Denny Dick for check in an amount not to exceed \$250 for stain from Valu Home Center for the shelters at Manion Park.

Discussion included:

- Setting a date for a Public Hearing on Waste Management's application for a Special Use Permit for a proposed Borrow Area. The Supervisor stated she would like to have in during the last week in July. Councilman Hannon stated she feels that the biggest concern is the water issue, and would like the Town to have an expert of its own, and would like the Town to hire a hydrologist. The Supervisor stated she is very comfortable that Waste Management is not going into the gravel. Attorney DiFilippo stated he was not aware that an actual application had been filed, but it had been filed in April. He stated that the Planning Board has had meetings on the matter, and if the Town Board receives the Planning Board's report, the Town Board then has 31 days in which to hold a Public Hearing. Mr. DiFilippo stated that the DEC is the Lead Agency, and has not issued their findings yet, but the Town has no choice but to schedule a Public Hearing, then they will have 62 days in which to make a decision about the Special Use Permit. He then outlined the SEQR process that must be followed, including a 239m notification to the Erie County Planning Department. He stated that at the Hearing, the Board could ask Waste Management to submit the proposed findings. Attorney DiFilippo stated that if the Board is receiving the Planning Board's report, which is dated July, 2009, tonight, then they need to schedule the hearing. Councilman Hannon asked if it would be reasonable to ask Attorney DiFilippo to write a letter to the Board spelling out the consequences of any vote. Mr. DiFilippo stated he can tell them if they are in a legal position to take a vote, but cannot make that decision for them. He stated they experts to help with their decision can be hired, if the Board so chooses. Councilman Hannon stated she is trying to avoid lawsuits. After discussion, the Public Hearing on the proposed amendment to Waste Management's December 13, 2008 Special Use Permit, to allow for the addition of a Borrow Area, was scheduled for Tuesday, July 28, 2009, at 7:00 PM at the Town Hall Community Center. Comments on the proposal will be accepted through August 10, 2009. A Special Meeting will also be held that night, immediately following the Public hearing. Councilman Hannon was asked to find a hydrologist, and they could be hired at that time, if the Board feels it is necessary.
- Concerning a Master Plan for the Parks and green space, Councilman Montgomery stated he has a second company's quote to do a Master Plan for the Parks for \$22,000.00. It was noted that TVGA Consultants'

quote was \$29,000.00. Supervisor Balus stated that she thinks a committee should sit down with these two proposals and review to make sure they are quoting the same work. She suggested that at the next meeting, any other proposals be brought forward. Councilman Hannon stated that there is a map of proposed improvements that is from when the Park grant was received. The Supervisor felt that it is wise to get a professional blueprint so as not to hodgepodge the parks.

- The Supervisor explained some bookkeeping information concerning previous transfers of funds for Highway department truck purchases, and stated that the Highway Reserve account does not have the amount of money that the Highway Superintendent believed should be in that account. She stated she would explain it to Board members if they would like to come to her office.
- Concerning architectural plans for possible pool house renovations, Councilman Uhteg stated that the current bathhouse does not meet Code, and he met with an architect, Heather Nemec, who would design, draw up specs, and do an energy audit for \$5,800.00. He stated a church in Arcade, Mountainview Builders, and Dan Hoffman have all recommended her. On a motion by Phelps, seconded by Uhteg, Architect Heather Nemec was hired to draw up plans and specs for a pool house renovation at a cost of \$5,800.00. Carried, Hannon and Montgomery abstaining, and Phelps, Uhteg, and Balus voting aye. Councilman Hannon explained that she has not made up her mind on which way to go on such a project, stating she has spoken to many residents who don't feel it is necessary.
- Supervisor Balus stated that the budget process will begin in the next couple of weeks, with departmental request forms to be handed out. She noted that she needs to have the Budget to the Board by the end of September.
- Concerning the Springville Control Center Service Agreement, she stated she has received the information, and it is being reviewed by an attorney.

Councilman Phelps stated she has received a price from City Fence to fence in the playground behind the Town Hall/Community Center. She stated that to replace the top rail, replace any areas of broken fence already there, add 40 linear feet of 2x9 galvanized chain link fence, install a 3 foot wide gate, and clean up the site, the cost quoted is \$2,158.00. Councilman Hannon asked that more quotes be received, and Councilman Phelps stated she would get another quote. She also stated that she has received a complaint from the parent of a 9 year old who feels he should be able to drop off the child at the recreation program. Councilman Phelps stated that it is not a drop off program, has never been a drop off program, and the current policy is no children under the age of 11 can be at the Park without an adult present. She stated she does not have a problem with the 9 year old being dropped off, but there is also a 5 year old and an 8 year old that have been just dropped off. The Board discussed where the line should be drawn, and finally agreed that no children under 10 should be dropped off due to staffing constraints and lack of shelter in dangerous weather conditions. Councilman Hannon suggested that perhaps a sign up sheet be put up where other parents would be responsible for other children, and a sign stating the policy be placed.

Councilman Uhteg stated that he has met with the Town Historian concerning the need for roof repair at the Meeting House (Old Town Hall). He stated it is the roof level over the carriage bays and museum, and he has drawn up specs. Mr. Uhteg stated he will send them to 6 local builders, and suggested that sealed bids be advertised. Councilman Hannon stated that she has also been through the building with the President of the Historical Society. She stated that they are very interesting in taking it over at the point that they get their 501-c3 designation, which they have been working toward. She stated she would like to see that happen. The matter was discussed, and it was felt that when they get that designation, perhaps the Town could contract with the Historical Society to help pay some of the costs. Councilman Uhteg then made a motion, seconded by Councilman Hannon to advertise for sealed bids for the roof repair project at the Meeting House/Old town Hall in the Town's official newspapers, and to open those bids at the August 12, 2009 Regular Board meeting. Carried, 5 ayes, 0 noes. Mr. Uhteg stated that the Concert in the Park featuring Gene Hilts and the Rustic Ramblers was a success with approximately 200 people in attendance. He stated he is looking for other musical groups to perform, but as of this moment, has nothing scheduled. Mr. Uhteg stated he is still waiting for quotes for the redirection of the water pipes in the vault.

Councilman Hannon stated that the Senior Flu Clinic is scheduled for October 30, 2009. She also stated that she was contacted by the Senior Citizens, who would like approval for funding for another trip, this one in North Tonawanda on October 17, 2009, to a program called "Step Back in Time", a stop at the carousel factory, and lunch at Pane's Restaurant. She reported that they will be charging \$25.00 per person, with the Town to pick up the balance of the cost, and they will need a deposit check in the amount of \$200.00. On a motion by Phelps, seconded by Montgomery, the trip was approved, with the cost to the Town not to exceed \$3,500.00. Carried, 5 ayes, 0 noes. Councilman Uhteg asked that the Senior Citizens advertise these trips for any other Senior Citizens that may not belong to the group. Ms. Hannon stated she would pass on the request. Councilman Hannon stated that she has scheduled a 6-hour Defensive Driving Course for September 29<sup>th</sup> and October 1<sup>st</sup> in the Town Hall cafeteria. She stated that the Food for All Program will be back on July 21<sup>st</sup>. She stated she has forwarded a letter to the Attorney concerning the Fire Tax matter.

Councilman Montgomery stated he ran the House Numbering Ordinance ad in the Pennysavers, and it has generated some calls to the Clerk's office. The Clerk stated there have been no requests for house numbers but for information, and gave some examples. Councilman Montgomery asked if the Board felt the ad should be run again, and it was the consensus that it should be run again, with enforcement starting in September.

Attorney for the Town Anthony DiFilippo, III updated the Board on Legal matters affecting the Town. He stated that in the Gernatt/ZBA litigation, the Town's Record on Appeal was printed today, and the briefs will be filed in the next few weeks. In the Waste Management matter, which the Concerned Citizens served due to the Co-Generation Plant, he stated that the Town has filed its briefs to the Appellate Division in a timely matter, but that the Concerned Citizens are asking for more time to file due to the extensiveness of the record. He stated he expects the Court will grant the extension. Mr. DiFilippo stated that as to the Zoning litigation, the Town has filed a Motion for Summary Judgement, which was scheduled for July 30<sup>th</sup>, however the Court has moved that back to July 28<sup>th</sup>. The Attorney stated that the Board has been copied on the Notice of Claims filed against the Town, both the Webber matter and the West matter. He stated he notified the insurance company that the Town has a Notice of Defects Law. Attorney DiFilippo stated that concerning the Planning Board's proposed amendments to the Zoning Ordinance, he will draft a Local Law if the

Board so chooses. He stated that the Planning Board wants to lengthen the deliberation time frame to 62 days from the State Town Law's 31 days, and therefore, a special provision needs to be written in that the Town wishes to supersede Section 274B of the Town Law. Mr. DiFilippo stated that a resolution would be needed to direct him to draft such a local law, as well as to designate Lead Agency in the SEQR review of the matter. The Attorney stated that he has reviewed the Borrow Pit Application. Mr. DiFilippo stated he has received Councilman Hannon's letter, has spoken to the Comptroller's office, and is waiting for a reply from Mitch Morris. He stated he has spoken to Town Auditor Laura Lander and does not feel that anything would change what she has said, that the Fire Tax can be paid down.

The Town Clerk's monthly report for the month of June 2009 was submitted, as well as the Code Enforcement Officer's report. There were no Planning Board minutes, however the Planning Board's letter of July 2<sup>nd</sup> was received. The ZBA submitted the minutes of Appeal #209, heard on June 16, 2009. On a motion by Phelps, seconded by Uhteg, all reports and minutes were received and filed. Carried, 5 ayes, 0 noes.

After review by Board members, on a motion by Phelps, seconded by Montgomery, General Fund Warrant #7, including vouchers #311 through #370 and totaling \$121,237.68; and Highway Fund Abstract #7, including vouchers #98 through #108, and totaling \$9,210.23 were approved for payment. Carried, 5 ayes, 0 noes.

Under Privilege of the Floor:

Rod Franz, owner of Chaffee Water Company, addressed Councilman Uhteg and Supervisor Balus, stating he does not feel that they are qualified to say that the Waste Management Borrow Permit application looks good. He expressed his concerns about the water supply, and stated that they are only talking to Waste Management. He stated that Waste Management has told him they guarantee it will not affect his water, so why will they not have it written into the permit. Supervisor Balus stated that they have met with Tom Lewis three times, and she has not seen any indication that they are going below the clay line into the gravel. Mr. Franz asked the Supervisor if she has asked Waste Management to cover the water supply, as Gernatt Asphalt has to do per their State permit, and asked them to put it in writing. Councilman Uhteg stated that he is now more informed about the matter than he ever has been before, and that if you understand it, it is not going into the gravel. He stated there will be hearings on it, and he intends to know all he can before taking any vote. Mr. Franz stated he will stay on top of them to get Waste Management to put it in writing to cover the water supply. Supervisor Balus stated he has their vow that they will make the very best decision based on all of the information gathered.

Paulette Green stated that they have left a message that there is a second 18-wheeler on their road. The matter was discussed. Supervisor Balus stated she feels that Deerfield Dr. and Timelessview Dr. are residential but Meyers Rd. and, Savage Rd. are thoroughfares. Councilman Uhteg stated he feels they are all residential. He doesn't feel you can legislate against one and not the other, and his concern is what about all the other trucks in the Town. Mr. Green felt that the No Truck signs should have been taken down. A Local Law or possible Weight Limits were discussed. Mr. Montgomery stated he thinks that a weight limit should be pursued. Councilman Hannon stated she is sympathetic but she has trucks. Possible compromises were discussed, but it was felt there could be none. The Attorney stated that enforcement of weight limits would be a problem, as well as the grandfather issue. He suggested that we canvas other communities to see what they have done, and the Town Clerk stated she would e-mail other Clerks to find out how the matter is handled in their towns.

Clint Salmon suggested that Councilman Phelps check with the Town's liability insurance carrier to find out their take on the drop off age for the recreation program. He also responded to Councilman Uhteg's request for advertisement of the Senior Citizens trips, stating that there are 66 seniors in the group, and it would not hurt to advertise. Mr. Salmon reported that the Meals on Wheels Program is in its 9<sup>th</sup> year, and is now serving 10 people. He stated that one person did not know about the program, and asked that if anyone has a neighbor in need of the program, to please call him. He stated that the cost remains the same: whatever the client can afford. He stated that the hospital charges \$5.70 per meal, but very few of the clients pay that and no one in 9 years has been turned down. He also asked that Rural Transit Van Program be remembered.

Planning Board Chairman Dan Miller asked the Board to schedule a Public Hearing on the proposed Zoning Amendments and stated that Town Planner Dan Ulatowski could handle the SEQR requirements.

Tom Lewis of Waste Management stated that they will be holding an informational meeting on the Borrow Area on July 21<sup>st</sup> at Waste Management and everyone will be invited.

Supervisor Balus stated she is proposing that Parks employee Mark Stevens' hourly wage be increased from \$11.00 to \$13.00, stating that Dennis Dick is getting \$13.00 per hour, and they do the same work. She asked the other Board members what they think. Councilman Phelps stated that she felt that getting a \$2.00 per hour raise in two months is a lot. She stated that Dennis Dick has been here a year longer and has seniority. Councilman Uhteg stated he would go \$1.00 more. Councilman Montgomery asked if he had approached the Supervisor for a raise, and she stated he had not. On a motion by Uhteg, seconded by Hannon, the Board raised Mark Stevens' hourly wage from \$11.00 per hour to \$12.00 per hour. Carried, 5 ayes, 0 noes.

The Supervisor stated that earlier in the meeting, the Board had approved giving Parks Caretaker Dennis Dick \$250.00 to purchase stain, but did not actually vote to cut the check. On a motion by Hannon, seconded by Montgomery, the Board approved that a check be cut to Valu Homecenters and given to Dennis Dick to use, not to exceed \$250.00. Carried, 5 ayes, 0 noes.

Supervisor Balus stated that, concerning Labor Day in the Park, Connie Rice and Virginia Domes are heading up the planning committee, and are asking for Town support. Supervisor Balus stated she would like to authorize \$2,000.00 for them to seek out entertainment for the event. The matter was discussed, and possible fees for setting up booths was suggested but not pursued. On a motion by Balus, seconded by Phelps, \$2,000.00 was authorized to be spent for Labor Day in the Park. Carried, 5 ayes, 0 noes.

Announcements were as follows:

- The next Regular Town Board Meeting will be held August 12, 2009 at 7:30 PM
- A Public Hearing on the proposed Waste Management Borrow Area will be held on July 28, 2009, at 7:00 PM at the Town Hall/Community Center.
- Planning Board meetings will be held on July 15, 2009 at 7:30 PM and Aug 5, 2009 at 7:30 PM.

Other Information was as follows:

- An Ecumenical Service, Sponsored by Historical Society, will be held at the Sardinia Meeting House on July 19<sup>th</sup> at 11:30 AM
- The Sardinia American Legion Steak Bake will be held at Veteran's Park on August 8<sup>th</sup>, 4:00 until 7:00 PM
- The Town wide Garage Sales will be held July 17, 18, and 19 from 9 AM until 5 PM.

Questions included:

Mike Hannon asked if the architect for the pool house renovations had been given a budget for the project, or some idea of a price range intended by the Town. Councilman Uhteg stated they had not discussed a budget.

The Supervisor stated that anyone interested in helping out with the Labor Day in the Park should sign up with the Supervisor's secretary.

There being no further business to come before the Board, on a motion by Phelps, seconded by Hannon, the meeting was adjourned at 9:26 PM. Carried, 5 ayes, 0 noes.

Respectfully Submitted,

Town Clerk