

8-11-2011 – REGULAR BOARD MEETING

Present:

Councilman Cheryl L. Earl
Councilman Daniel L. Miller
Councilman David L. Montgomery
Councilman Norman J. Uhteg
Supervisor Mary L. Hannon

Also Present:

Attorney for the Town Linda Joseph
Highway Superintendent Donald W. Hopkins
Town Clerk Betsy A. Marsh
Approx. 60 guests

The Sardinia Town Board held its Regular Town Board meeting for August 2011 on August 11, 2011 at the Sardinia Town Hall/Community Center. Supervisor Mary 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 July 14, 2011 Public Hearing on Local Law #3 of 2011, Amendment to the Notice of Defects Law; the July 14, 2011 Public Hearing on the Waste Management Special Use Permit; and the July 14, 2011 Regular Town Board meeting. On a motion by Earl, seconded by Miller, those minutes were approved as written. Carried, 5 ayes, 0 noes.

Departmental Reports included:

Supervisor Hannon stated that she had attended the Rural Transit Van meeting where there had been discussion concerning Sardinia providing office space for handling dispatching of the van in this building, and the Rural Transit administration has appointed Jim Montgomery as the liaison for the van service. She stated there will be a meeting in a couple of months to discuss the matter further. The Supervisor stated that, concerning renovations to either the gym or the upstairs for use as a court room, with \$30,000.00 in grant money from the State, she stated she had met with Councilman Montgomery, Justice Thompson and other department heads. She stated it looks like the project would cost more than the Town is willing to spend, and the project has been scrapped. Supervisor Hannon also reported that she had attended the Meals on Wheels Advisory Board meeting and things are going smoothly there, with some minor expenses coming up in the near future; she stated she is working on the 2012 Budget, and Department heads will be getting their paperwork next week; the NYMIR Insurance review was conducted today and a few minor problems will need to be taken care of, but everything else seems to be okay; she stated that the Waste Management monitoring report is available tonight, and is also available on the WM website, and Tom Lewis is here if anyone has any questions. The Supervisor stated she had a phone conversation with Mark Gaston of Erie County Soil and Water who has spoken numerous times to the land owner whose property is washing out away on Rt. 39. She stated that Soil and Water does not have a definite plan in place yet, so no action is being taken. Supervisor Hannon stated that Senator Gallivan was here and met with her and Councilman Montgomery, mostly to introduce himself. She stated that she is sure there will be another meeting with him in the near future and more of the Board members and more of the public can be included.

Councilman Uhteg reported that he sat in on a webinar on hydrofracking, done by a chemist and scientist, which showed that in the process of hydrofracking, there are many chemicals, many toxins and many problems. He stated that the EPA is currently studying the process and hopefully that will come out soon. He stated that he has investigated and found that, though most people don't think there are a lot of gas wells in the Town, there are 54 gas wells in the Town of Sardinia.

Councilman Montgomery reported that he has spoken to Dr. Pugh and has scheduled this year's rabies clinic for October 22nd. He also stated that the Board needs to decide if they want to add an enumeration fee to any unlicensed dogs found during the dog census. Previously the Board had decided to conduct the census but had not decided on a fee. The Clerk stated that most towns add a \$5.00 per dog enumeration. On a motion by Montgomery, seconded by Miller, a onetime \$5.00 per unlicensed dog fee will be added to the licensing fee for any unlicensed dog found during the upcoming dog census, and this will be published in the census notice. Carried, 5 ayes, 0 noes.

Councilman Earl reported that the Summer Recreation program ends next week, and that the swim program ran smoothly this year. She stated that they do have a "wish list" for next year, which includes furniture for the pool area, and a shade sail for over the kiddie pool. She stated she has looked into prices, and chaise lounges are approximately \$100.00 each, and the lowest sun shade cost is \$118.00. After discussion on storing and other questions, a motion was made by Earl, seconded by Miller to purchase chaise chairs for the pool area. The motion was defeated, with all Board members voting no, with none in favor. On the question of the sunshade canopy for the wading pool, a motion was made by Earl, seconded by Montgomery, to purchase the shade at a cost not to exceed \$130.00. Carried, 5 ayes, 0 noes. Councilman Earl stated that the water aerobics had a good response, and that the total earnings at the pool this year to date is \$8,400.00, which includes all pool revenues, including the aerobics, and \$3,774.00 of that was just daily pool usage. She stated there is discussion on the Tiny Tots Program later in the agenda. Councilman Earl stated that at the Youth Board meeting, new ideas for winter recreation included utilizing some of the County offered teen programs, such as the Red Cross Babysitting course, and other courses along those lines, but nothing has been decided yet.

Councilman Miller stated he had attended a meeting of the Lake Erie Water Protection Alliance, of which Sardinia is a member, and the Alliance has applied for a three year, \$9,500.00 grant to determine where pollutants are entering the Lake, and for stream bank stabilization, but there is no word on the grant as yet. He stated concerning the Wellness Institute of Greater Buffalo and Western NY is having a couple of walks in Sprague Brook Park on October 1st and 2nd, and are 1 1/4 mile walks. Those interested must meet and register at the Casino in the Park. He stated there will also be other wellness

programs, such as blood pressure checks, etc. at the Casino that day. Councilman Miller also stated that, concerning the property on Rt. 39 that is in danger of washing out, Mark Gaston of Erie County Soil and Water was unaware that there are three septic systems there that are endangered, making it even more of an emergency, and Mr. Gaston is trying to come up with a plan for bank stabilization there.

Highway Superintendent Donald Hopkins stated that at the last meeting, the fence along the south side of this building was discussed. He stated he has checked it out, and there is approximately 100 feet of fence that is in bad shape and it is recommended that it be replaced, at a ballpark cost of \$1,500.00 to \$2,500.00, depending on the company. The Supervisor asked if the Board needs to get three estimates. He recommended it be left up for the winter and done next spring. The fencing and installation was discussed and it was felt that the same wire gauge and height be used when getting cost estimates. Supervisor Hannon asked that he and Councilman Montgomery look at the matter and it can be discussed at next month's meeting. Mr. Hopkins stated that, concerning road work, he and his crew, with help from the Town of Concord and County Highway in Concord, have chip sealed 5 miles of highway in the last couple of weeks. He stated that concerning the breakdown of the 1987 Ferguson roller, it is currently at Baschmann Services awaiting repair. Mr. Hopkins stated the estimated cost of the repair is \$5,000.00, which is also the book value of the equipment, however, it will take up to 20 weeks to get the parts. He stated that, meanwhile, he has been borrowing a roller from the Town of Concord, but wants the Board to keep this in mind at Budget time. The Highway Superintendent reported that he met with the NYMIR Insurance inspector and accompanied him on a tour of the Highway Garage and the Park and pool. He stated that the inspector was happy with what he saw, with the biggest problem being he wants 9 inches of pea gravel put under the swings and playground here and at the Park, after the season ends, and also would also like to see the three panel boxes in the pool pump room have attention paid over the next few years due to the possibility of rusting.

Attorney for the Town Linda Joseph reported that this month, she has been working on the Special Use Permit application by Waste Management, the conditions for the permit, including issues related to water and Hand Rd.. She stated she also worked on a Memorandum of Understanding related to the financial aspects of the Special Use Permit and prepared resolutions with respect to that for the Board's consideration. The Attorney stated they also provided advice to the Planning Board with regards to signage for agricultural sales, and stated that an amendment to the Zoning may be required for that. She stated she had also reviewed a letter from the Youth Baseball League with regards to dugouts and insurance issues, and looked at issues relating to the LOSAP referendum issues and items that will be subject to discussion later this evening.

Public Comments included:

Boy Scout leader Michael Bialecki spoke on the Eagle Scout project at the Lord's Hill cemetery. Mr. Bialecki updated the Board on the work, which included the removal of a fallen tree on the property line and some others that were in need of removal. He stated that a tree removal company offered to take care of those for the Scouts, and the wood has been given to Vacinek's, the other property owner. Mr. Bialecki thanked Waste Management and Pioneer Motorsports, who have donated money towards the project. He stated that the cemetery work will be completed by April or May of next year, and Eagle Scout candidate Josh Bialecki will give the Board monthly updates on the progress of the project.

John Schiener, Treasurer of the Fire Company, commented on the agenda items concerning the Firemen's Length of Service Awards Program, stating that decision on these items would be premature, and stating that there have been no Board discussions on these items, no consultation with the Fire Company, no authority was given to the Attorney to pursue this matter, no detailed financial information shared with the Fire Company or the public. He asked if the Town has hired a financial analyst on this matter. He stated that the paid Town employees have a defined benefit program and that program has not been exited. He stated that the Town has over \$3 million in reserves. He stated he feels that the Firemen's LOSAP should remain a defined benefit program and urged the Board to defeat or at least table the resolutions to terminate the defined benefit program.

Suzanne Lefort of Sardinia spoke to urge the Board to continue the Tiny Tots Program, and stated that the program for this fall is doubled from last year, and stated she would hate to see the program discontinued.

Jeremiah Kane of Pratham Rd. also spoke in favor of the Tiny Tots Program continuing, stating that his son was in the program and he was very impressed. He stated that as a member of the Springville G.I. School Board, he is disappointed that there are no such programs in the school districts. He asked the Town Board to look at the books and see if it could be continued for another year, and volunteered to try to get the schools to take it over so it is not a financial burden on the Town.

Michael Hannon of Pratham Rd. spoke in disagreement with Mr. Schiener on the LOSAP issue, stating that the issue has been discussed in the past, and the figures have been put out before as to what the program costs. He stated that if the program maxed out at 75 individuals, the Town would not be able to afford it. He stated that the option of a defined contribution was not presented to the voters and that the defined benefit was the only planned looked at. Mr. Hannon stated that those already vested in the current program would still be vested and still collect. He stated that when the landfill contributions are gone, the taxpayers will have to pay full taxes again and most people will not be able to afford to live here. He stated it should go back to the voters, who may decide to leave it alone or to go to the less expensive option.

Supervisor Hannon stated are a couple of Budget transfers necessary within the General Fund Budget, and the following resolution, to be known as Resolution #62 of 2011 was moved for adoption by Earl, seconded by Montgomery:

**RESOLUTION #62 – 2011
APPROVAL OF FUND TRANSFER**

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

| <u>TRANSFER FROM</u> | <u>AMOUNT</u> | <u>TRANSFER TO</u> |
|------------------------|---------------|-------------------------------|
| A1620.220 - TH Improv. | \$246.59 | A1220.400 Supvr - Contractual |
| A1620.220 - TH Improv. | \$ 83.71 | A1620.490 Oper of Bldg. Other |

NOW, THEREFORE BE IT RESOLVED, the Sardinia Town Board approves the above mentioned transfer of funds for 2011.

Upon roll call vote: Earl, aye, Miller, aye, Montgomery, aye, Uhteg, aye, Hannon, aye. So Resolved.

On a motion by Earl, seconded by Montgomery, Abstract #8 of 2011, including vouchers #513 through #, totaling \$54,314.11, with the General Fund portion of that amount totaling \$24,623.11; the Highway Fund portion totaling \$27,276.53; the Fire District Fund totaling \$1,507.69, and the Streetlighting District Fund totaling \$906.78; and; was approved for payment. Carried, 5 ayes, 0 noes.

In Unfinished Business:

Supervisor Hannon asked if there was any discussion on the application by Waste Management for a Special Use Permit for its Liquid Solidification process. She stated her only comment is that her concerns have been addressed in this resolution, and a report by the CEO has verified compliance concerning the Borrow Permit, and all seems to be in order. Councilman Uhteg asked if the Memorandum of Understanding will be attached to the permit, and was assured that it will be. The following resolution, to be known as Resolution #63 of 2011 was then moved for adoption by Montgomery, seconded by Miller:

**RESOLUTION # 63 -2011
RESOLUTION FOR APPROVAL OF SPECIAL USE PERMIT WITH RESPECT TO DISPOSAL OF
SOLIDIFIED LIQUID WASTE BY WASTE MANAGMENT**

WHEREAS, Waste Management of New York LLC ("Waste Management") owns and operates a properly permitted landfill located within the Town's limits (the "Landfill") pursuant to that certain Host Municipality Agreement dated March 10, 2004 between the Town and Waste Management (the "Host Municipality Agreement"); and

WHEREAS, Waste Management has applied to the Town for a Special Use Permit authorizing the acceptance into the Landfill of liquid wastes in accordance with the Process as specifically detailed in the DEC's modified permit issued on June 29, 2011 (the "DEC Modified Permit"); and

WHEREAS, as required by New York State law, Waste Management also applied for an amendment dated to its Part 360 permit from the New York State Department of Conservation (the "DEC") seeking permission to dispose of liquid waste into the Landfill pursuant to a liquid waste solidification process and the Town, an involved agency, consented to the DEC acting as lead agency for purposes of conducting a coordinated environmental impact of the proposed amended permit pursuant to the New York State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, the DEC ultimately issued a Negative Declaration for the proposed amended 360 permit, finding that it will not present a significant adverse environmental impact; and

WHEREAS, Waste Management obtained the requested amendment to its Part 360 permit from the DEC which allows the acceptance into the Landfill of liquid wastes pursuant to a pursuant to a Liquid Solidification Process, all as specifically detailed in the modified permit number 9-1462-00001/00006 issued by the DEC on June 29, 2011 (the "Modified Permit"); and

WHEREAS, the Town's Planning Board acted in accordance with state law and local law in considering Waste Management's application for a special use permit and issued a recommendation in favor of granting the special use permit, subject to certain conditions which the Town's Planning Board set forth in its report to the Town Board dated June 1, 2011; and

WHEREAS, the Town did publish and held a public hearing on Thursday July 14, 2011 to solicit any public comment with respect to Waste Management's special use permit.

NOW THEREFORE, be it resolved by the Members of the Town Board that as follows:

1. **Compliance with SEQRA:** The Town Board recognizes that, inasmuch as the DEC has conducted a "coordinated review" under SEQRA and issued a Negative Declaration, the Town is bound by the DEC's negative declaration and the Town has complied with SEQRA by reason of its participation in the coordinated review conducted by the DEC as lead agency.
2. **Issuance of the Special Use Permit Subject to Conditions:** Based upon its consideration of the Report of the Planning Board, its review of Waste Management's application, its consideration of the comments provided at the Public Hearing, other documents and submissions received during the public comment period, the Negative Declaration issued by the DEC and the its review of the terms and conditions of the Modified Permit issued by the DEC on June 29, 2011, the Board has determined that it is in the public interest to grant Waste Management's application for the special use permit subject to the following conditions:
 - a. Agreement to and Execution by Waste Management to a Memorandum of Understanding containing the terms of which will be determined by the Board immediately upon passing this resolution and the Board will make any modifications it deems necessary to the attached proposed Memorandum of Understanding; and
 - b. Compliance by Waste Management with the Modified Permit issued by the DEC on June 29,

2011; and

c. Compliance by Waste Management with the terms of the Special Use Permit issued by the Town on October 14, 2009 with respect to the Borrow Area; and

d. Compliance by Waste Management with the provisions in the Chaffee Facility SPDES Multi-Sector General Permit ((GP-0-06-002) Stormwater Pollution Prevention Plan (the "SWPPP") with respect to the culvert located on Waster Management's property along the Hand Road in Chaffee, New York even though such culvert is not included in the SWPPP.

e. If any extreme nuisance odors resulting from the liquid solidification process occur, the process shall be suspended until adequately addressed to the Town's satisfaction.

A copy of the form of the Special Use Permit to be transmitted to Waste Management upon the Board's vote in favor of this resolution is attached.

3. Effective Date: The Special Use Permit application by Waste Management is hereby approved subject to the conditions set forth in paragraph 2 above and will be effective immediately upon the execution of the Memorandum of Understanding attached to this Resolution.

Upon roll call vote: Earl, aye, Miller, aye, Montgomery, aye, Uhteg, aye, Hannon, aye. So Resolved.

The Supervisor stated that the next resolution is to approve the Memorandum of Understanding in connection with this Permit. She stated this is determines the measurements and rates to the Town regarding the liquid solidification process. The following resolution, to be known as Resolution #64 of 2011 was then moved for adoption by Montgomery, seconded by Earl:

**RESOLUTION #64 -2011
RESOLUTION FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH RESPECT TO
DISPOSAL OF SOLIDIFIED LIQUID WASTE BY WASTE MANAGMENT**

WHEREAS, Waste Management of New York LLC ("Waste Management") owns and operates a properly permitted landfill located within the Town's limits (the "Landfill") pursuant to that certain Host Municipality Agreement dated March 10, 2004 between the Town and Waste Management (the "Host Municipality Agreement");

WHEREAS, Waste Management has obtained an amendment dated June 29, 2011 to its Part 360 permit from the New York State Department of Conservation (the "DEC") which allows the acceptance into the Landfill of liquid wastes pursuant to a Liquid Solidification Process, all as specifically detailed in the modified permit number 9-1462-00001/00006 issued by the DEC on June 29, 2011;

WHEREAS, Waste Management has applied to the Town for a Special Use Permit authorizing the acceptance into the Landfill of liquid wastes in accordance with the Process as specifically detailed in the DEC's modified permit issued on June 29, 2011 (the "DEC Modified Permit") and the Town Board has determined to grant said Special Use Permit based upon Waste Management's compliance with the terms and conditions of the DEC Modified Permit and the terms of the Town Board's resolution of August 11, 2011 granting the requested Special Use Permit, including Waste Management's compliance with the Memorandum of Understanding to be adopted pursuant to the instant resolution; and

WHEREAS, the Town Board believes it to be in the best interests of the Town to retain all provisions of the Host Municipality Agreement except that the Town Board believes that the Host Municipality Agreement needs to be supplemented by additional terms to establish the rates for and a methodology for calculation of the weight of the disposable waste generated from the Liquid Solidification Process and the Town Board Members have considered the terms of the proposed Memorandum of Understanding attached to the instant resolution.

NOW THEREFORE, be it resolved by the Members of the Town Board that the Town Supervisor is authorized to execute upon behalf of the Town the attached Memorandum of Understanding and its terms shall be effective immediately upon its execution by the Town Supervisor and an appropriate representative of Waste Management.

Upon roll call vote: Earl, aye, Miller, aye, Montgomery, aye, Uhteg, aye, Hannon, aye. So Resolved.

Under New Business:

Supervisor Hannon stated that the next resolution is something that she has been discussing for a long time, the expense of the LOSAP program. She stated that the reason she wanted it put on the agenda for this evening is because of the unstable market that we're up against and the ever increasing costs of the program, and the NYS Retirement System bill she just received in the amount of \$63,000.00, up from last year's cost of \$36,000.00. She stated that the Retirement System is also a defined benefit program. She stated that as the Supervisor of the Town, it is important for her to protect the residents of the Town. Councilman Uhteg asked why it wasn't brought up publically or at least have a discussion with the Fire Company. He stated he did not know a thing about this until he received his agenda. The Supervisor stated that he needs to talk to the President of the Fire Company, who has canceled numerous meetings with the Administrator of the program to discuss this matter. Mr. Uhteg asked other Board members if they were aware this was going to be on the agenda this evening. Councilman Montgomery stated he did not know it would be on the agenda, but he had no problem with it. Councilman Miller stated he didn't know it would be on the agenda, but has been concerned with the cost of the program since it was put into place. Councilman Earl stated she did not know it was going to be on tonight's agenda, but thinks the difference between a "Defined Benefit program" and a "Defined Contribution program" should be explained in detail. Attorney Joseph stated that these resolutions are not determinative, that these are to put the issue on the ballot for the taxpayers to determine. She stated that this referendum, should the Board approve, will be held during a regular election, not a special election, and the

voters will be given the option of which type of plan, where before, they were not given an option. She stated that Defined Benefit plans, which is what Sardinia's is, have doubled in cost in the last few years, and many towns, including Boston, have been looking at other options. She stated that the voters were not informed of the risks inherent in a Defined Benefit program, and we have been informed by the Plan Administrator that the Town can expect the costs of the current Defined Benefit Program, which has already doubled, to increase by 5% each year. She stated she thinks it is important to recognize that the Town has already spent \$446,284.44 on this program. She stated that is a big proportion of the \$3 million that the Town has if that amount of money is going to be spend regularly. She stated that this gives the taxpayers to make the decision to make the choice. The Defined Benefit Program gives the promise of what is going to be paid, and therefore the Town has to have that amount available and must contribute more as the investments are less, as in this market. With the Defined Contribution Plan, the Town promises to contribute a certain amount, then that amount is given out, with interest. Attorney Joseph stated that she contacted the Comptroller's office and studied the statute to come up with these resolutions, and stated that they had wanted just to amend the current plan to simply convert it from a Defined Benefit plan to a Defined Contribution plan, but was informed by the Comptroller's office that, by the statute, it must be done by these two steps -- to abolish the original plan, and then enact the Defined Contribution Plan. She stated that the rights that have accrued will still have to be paid, and the Town will still have to pay those that are vested under the current plan. Councilman Uhteg stated that the Town knew there would be a large investment to begin the program and it would go down each year from there. He stated that scare tactics are being used now. The Attorney for the Town stated that under the statute, Mr. Uhteg is disqualified from voting [because of his position as Vice President of the Fire Company]. Mr. Uhteg stated he contacted a lawyer and was advised he is not disqualified, and will be voting. Attorney Joseph stated that as the Attorney for the Town, she is advising him he cannot vote on tonight's resolutions. He stated he is voting anyway. Mr. Uhteg stated that the voters could vote down both options and the Fire Company could end up with nothing. He stated he felt this is terrible to bring this up tonight without any prior notice to the public or the Fire Company. Supervisor Hannon stated she thinks it is terrible that none of these issues were given to the voters and were decided by a Board that was mostly involved with the Fire Company. Danny Heineman, President of the Fire Company, stated he never had canceled any meetings with the Plan Administrator, nor had the Administrator asked to meet with the entire Fire Company. Mr. Uhteg asked when the Board had approved the Attorney look into this. The Attorney stated she has never had an entire Town Board directive for any work she has done. When asked, Councilman Uhteg stated he had no further comment. Supervisor Hannon then asked for a motion to adopt the resolution regarding the LOSAP Plan. The following resolution, to be known as Resolution #65 of 2011, was then moved for adoption by Earl, seconded by Montgomery:

RESOLUTION #65 -2011
TERMINATING THE DEFINED BENEFIT LOSAP PLAN SO AS TO ENABLE THE POSSIBLE ADOPTION OF A
DEFINED CONTRIBUTION LOSAP PLAN

WHEREAS, the residents of the Town approved a referendum establishing a defined benefit Length of Service Award Program ("LOSAP") for the members of the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc.;

WHEREAS, the LOSAP adopted by the Town is a defined benefit program, under which the Town is guaranteeing certain retirement benefits to eligible members of the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc.;

WHEREAS, based on the uncertain outlook with respect to the costs of this program and the ability of the Town to achieve the investment returns projected at the time the program was adopted the cost of the program—as demonstrated by the fact that the payment for the five year prior service credit has turned out to be much higher than originally projected—and, further, based on the returns the Town has been able to achieve on the funds invested in the program, it now appears that there is a risk that the Town will be required to make significant additional contributions to fully fund the defined benefit service award program in the future and this poses an unacceptable risk and burden on the taxpayers in light of the fiscal uncertainties at all levels of government; and

WHEREAS, the termination of the service award program—if this resolution is adopted by a referendum of the voters of the Town—will not affect vested rights under the defined benefit service award program which will continue to be the responsibility of the Town to fund and instead will only affect future potential rights.

NOW THEREFORE BE IT RESOLVED that the Length of Service Award Program for the members of the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc. shall be terminated and abolished as of December 31, 2011, subject to approval of a mandatory referendum by eligible voters and subject to the Town's continuing obligations to administer the funds currently invested in the program and to pay any benefits vested prior to the effective date of the termination of the program,

BE IT FURTHER RESOLVED that the following referendum is to be placed on the ballot for the November 8, 2011 election:

Should the existing Defined Benefit Length of Service Award Program for the members of the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc. created on December 28, 2009 be terminated and abolished as of December 31, 2011 subject to the Town's continuing obligations to administer the funds currently invested in the program and to pay any benefits which were vested prior to effective date of the termination of the program?

Once again, Attorney Joseph advised Councilman Uhteg not to vote. Upon roll call vote: Earl, aye, Miller, aye, Montgomery, aye, Uhteg, no, Hannon, aye. So Resolved. The Attorney for the Town expressed her objection to Mr. Uhteg's voting.

Supervisor Hannon stated that the next resolution is to set up a Defined Contribution LOSAP Program so that the Firemen have a reward in front of them. Councilman Uhteg stated that there is a resolution in front of the Board with no figures filled in. The Supervisor stated that is because the Board has to decide how much the contribution will be, and she handed out a chart showing contributions and costs, explaining that it is the minimum amount that can be contributed, and the maximum, as per the State statute. She stated that the minimum is \$120.00, with the cost to the Town of \$6,281.50

per year, and the maximum is \$700.00, at a cost of \$30,641.50 per year. She also told the Board that there is also life Insurance, at an additional cost of \$4,000.00. The Supervisor stated that the Town will still need to pay to administer the old program, at a cost of \$2,300.00 per year. She asked for the Board's thoughts about an amount. Councilman Montgomery asked if these numbers can be changed or if the Board must live with it. Mr. Uhteg stated he feels that the matter needs to be tabled until the figures can be reviewed. Attorney Alicia Rood explained the columns and that it is based on the current number of 42 Firemen in the Company. Councilman Earl asked if she understood correctly that if a Fireman is already in the Defined Benefit program and vested, and are also if they are in the proposed Defined Contribution program, they can collect from both. She was informed by the Attorney that, yes, that is correct, and gave an example of a 40 year old Fireman who has 8 years of earned service, they will collect from both. Mr. Uhteg stated he needs time to digest the information, and stated he does not completely understand. Several Firemen spoke against the proposal, stating they felt blindsided by tonight's action, and reminded that they are also residents, taxpayers, and voters. The Supervisor did not feel the matter needs to be tabled, stated it is not a personal issue, and stated she needs to do what is cost effective for the Town taxpayers. Supervisor Hannon then asked the Board for the amounts they felt should be put up for the referendum. Councilman Earl stated she would like to see the maximum of \$700.00. Councilman Miller stated he was in favor of \$450.00. Supervisor Hannon stated she would then like to see something half way between, or \$575.00. The Board agreed on the amount, with Councilman Uhteg stating these figures are shortchanging the Firemen. Supervisor Hannon asked for a motion to adopt the resolution to send the matter to the voters at the regular election, with the figure of \$575.00 added. The following resolution, to be known as Resolution #66 of 2011, was then moved for adoption by Montgomery, seconded by Earl:

**RESOLUTION #66 -2011
ESTABLISHING A DEFINED CONTRIBUTION LOSAP PLAN**

WHEREAS, the residents of the Town approved a referendum establishing a defined benefit Length of Service Award Program ("LOSAP") for the members of the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc.;

WHEREAS, the Town Board has adopted a resolution abolishing the defined benefit LOSAP based on the higher than expected costs of this program and the risks that the Town could be required to make significant additional contributions in the future to make up for shortfalls in the expected returns on the funds invested in the program;

WHEREAS, the Town Board believes it is in the interests of the Town residents to provide some retirement benefits to the members of the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc. beyond those already vested;

WHEREAS, the Town Board desires to provide a defined contribution service award program to replace the defined benefit service award program only in the event that the voters approve the referendum terminating and abolishing the existing defined benefit service award program and approve a referendum in favor of establishing a defined contribution service award program; and

WHEREAS, General Municipal Law Sections 216 and 218 authorizes the establishment of a defined contribution service award program which can provide a retirement benefit to the members of the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc., while at the same time providing the Town and its residents with certainty as to the future costs of said benefits and also allows for the termination and abolition of existing service award programs when approved by the voters through referenda;

NOW THEREFORE BE IT RESOLVED THAT, subject to and only if the voters approve a referendum abolishing the existing defined benefit service award program for the members of the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc., the Town Board hereby authorizes a defined contribution service award program be adopted as follows upon the voters' approval of the necessary referendum:

- 1) The fire company having volunteer fire fighters who are potential participants in the program is the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc.;
- 2) The program will be administered by the Town of Sardinia;
- 3) The entitlement age under the program shall be 65;
- 4) The estimated annual cost of the program, is \$25,391.50, The estimated costs include \$25,391.50 representing the estimated annual cost of the defined contribution, and estimated annual administration fees of \$1,000, plus an additional \$5.75 per applicant. These estimates are based on the current number of volunteer fire fighters;
- 5) The number of years of service required to obtain a nonforfeitable right to a service award is 1 year;
- 6) The activities for which points shall be granted toward a year of fire service are set forth in the attached addendum to this resolution which addendum is incorporated by reference and is made part of this resolution;
- 7) The amount of the annual contribution to be made on behalf of each participant credited with a year of fire service shall be \$575.00. The maximum number of years for which a participant may receive annual contributions shall be forty years;
- 8) There shall be no contributions for fire service rendered for any years preceding the adoption of this program;

- 9) The program shall take effect on January 1, 2012, subject to the approval of a mandatory referendum by eligible voters and further subject to the voters' approval of the referendum terminating and abolishing the existing defined benefit service award program; and
- 10) A proposition authorizing the adoption of the program shall be submitted to referendum of the voters on November 8, 2011

NOW THEREFORE BE IT FURTHER RESOLVED that the following referendum be placed on the ballot for the November 2011 election:

Subject to and only if the voters approve a referendum abolishing the existing defined benefit Length of Service of Award Program for the members of the Memorial Volunteer Fire Company of Chaffee-Sardinia, NY, Inc., should the Town adopt a defined contribution Length of Service Award Program whereas the estimated annual cost of said program is \$25,391.50, including an estimated annual administration fee of \$1000, plus \$5.75 per participant, the estimated annual cost per covered participate including a death benefit (the amount of which will be \$10,000) is \$575.00 and, because the program is a defined contribution program, there is no monthly award to be paid to eligible volunteer fire fighters and instead each participant, upon reaching entitlement age or at a time when permanent total disability is established, shall be entitled to a benefit consisting of the amount resulting from the defined annual contribution made by the Town on behalf of such participant, plus interest, less necessary administrative costs.

Upon roll call vote: Earl, aye, Miller, aye, Montgomery, aye, Uhteg, no, Hannon, aye. So Resolved.

Supervisor Hannon asked Councilman Montgomery to explain the next resolution. He stated it is for approval for the Town to participate in a multi-jurisdictional hazard mitigation plan, and stated that the Town needs to be a member of a multi-jurisdictional plan in order to receive Federal funds in the event of a disaster. The following resolution, to be known as Resolution #67 of 2011, was moved for adoption by Earl, seconded by Miller:

**RESOLUTION #67 - 2011
APPROVAL OF PARTICIPATION OF ERIE COUNTY MULTI-JURISDICTIONAL HAZARD
MITIGATION PLAN UPDATE – 2011**

WHEREAS, the Sardinia Town Board has reviewed the paperwork submitted by Councilman David Montgomery from Erie County Department of Emergency Services regarding the Town's participation in a multi-jurisdictional hazard mitigation plan update; and

WHEREAS, the Sardinia Town Board agrees that it would be beneficial for the Town of Sardinia to participate in this program, and

WHEREAS, the Sardinia Town Board hereby authorizes Supervisor Mary Hannon to execute and enter into the agreement produced by the EC Department of Emergency Services, and

WHEREAS, the Sardinia Town Board hereby appoints Councilman David Montgomery as our representative and Councilman Daniel Miller as our "alternative representative" to this committee.

NOW, THEREFORE, BE IT RESOLVED, the Sardinia Town Board hereby authorizes Mary Hannon to enter into and execute and agreement for the Town of Sardinia to participate in the EC Department of Emergency Services multi-jurisdictional hazard mitigation plan update, and hereby appoints Councilman David Montgomery and Councilman Daniel Miller as our representative and alternate, respectfully, to this committee.

Upon roll call vote: Earl, aye, Miller, aye, Montgomery, aye, Uhteg, aye, Hannon, aye. So Resolved.

The Supervisor stated that she has talked to Gene Heater, the LOSAP administrator, who has scheduled a meeting here on September 14th at 7 PM, and she stated she would like to have it here and give the Firemen a chance to speak with him, stating that it doesn't seem to be working out with scheduling other ways. She stated she would make sure that he or his representative be here to discuss the program.

Supervisor Hannon stated that the Board has received a letter from the Chaffee-Sardinia Youth Baseball league, and League President Mat Roblee and Coach Jodee Roblee were on hand to explain that they would like to build dugouts at both the Manion Park and Town Hall Little League field. He explained that the dugouts provide for the safety of the players, so they don't get hit by foul balls or other players swinging bats. He stated that they would be built with volunteer labor, donated materials, and are just asking the Town to allow these be built on Town property. Jodee Roblee stated that contractor Greg Hopkins will be drawing up plans and the work will be done in the spring. She stated they will be working on the fields this weekend getting them winter ready. They also stated that in the future, they would also like to build a bull pen but have no plans at this time. They are looking for permission from the Town Board to build the dugouts over the existing team benches. Supervisor Hannon stated she has discussed the legal issues with the Town Attorney and it has been cleared with the Town's insurance company. She stated that the only remaining issue is a set of plans and to check with the Highway Superintendent to see if he has any issues. Councilman Uhteg suggested they be submitted to the CEO for his okay. No one had any objections to the plan.

Councilman Earl spoke on the Tiny Tots program. She stated that there are currently 16 children signed up, 7 of whom are Town residents. She stated that last year's program cost \$12,000.00 just in payroll and there were 8 children who attended, and the sessions had been combined due to the decrease in enrollment. The program was discussed, with Councilman Earl, noting that numbers are really low, and stating it is really difficult to continue a program that only benefits that few residents, and costs that much money. She guesstimated that the program cost about \$17,000.00 last year with payroll, heating, lighting and other costs. It was discussed that the Universal Pre-K programs at the schools is what has caused the enrollment numbers drop, and Supervisor Hannon stated that Laura Marshall and the others have

done a wonderful job with the program, but it is just not cost effective, and it is hard to justify that cost. Councilman Uhteg stated it is a great program, and he made a motion to continue the program, which was seconded by Councilman Miller. Upon roll call vote, Ear, no, Miller, aye, Montgomery, no, Uhteg, aye, Hannon, no. The motion to keep the Tiny Tots Recreation Program was defeated, 3 noes, 2 ayes.

A letter was received from Amy Petri requesting to use the Town Hall gym for Zumba Dance classes. The Supervisor stated she informed Ms. Petri that she would need a certificate of insurance, which has not yet been provided, and informed her that the fee to use the building is \$100.00 per event. Ms. Petri asked that the Board to reconsider the fee and perhaps create an hourly fee. The Supervisor reminded the Board that they had refused another person permission to use the building on a commercial basis, and she intends to charge \$45.00 per month, or \$7.00 per class. Board member4s felt there was nothing they could do at this point, and will revisit an hourly rate at the Organizational Meeting in January.

Supervisor Hannon stated that the next item of business was an Executive Session to discuss an Assessment lawsuit brought by Four Lakes Management, and the Town Assessor Thelma Hornberger will also be invited to attend. On a motion by Earl, seconded by Montgomery, the Board went into Executive Session at 8:00 PM to discuss pending litigation. Carried, 5 ayes, 0 noes.

The Board returned to Regular Session at 8:06 PM, with the Supervisor stating that no action had been taken.

There being no further business to come before the Board, on a motion by Earl, seconded by Montgomery, the meeting was adjourned at 8:07 PM. Carried, 5 ayes, 0 noes.

Respectfully Submitted,

Betsy A. Marsh, Town Clerk