

8-12-2010 – 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
35 guests

The Sardinia Town Board held its Regular Town Board meeting for August on August 12, 2010 at the Sardinia Community Center. The Supervisor announced that Tom Lewis of Waste Management could not be here this evening to give the quarterly landfill report, as agreed upon in last year's HMA Amendment, but has left a written copy of the report, along with his office phone and his cell phone number, in case anyone has a question. Supervisor Mary L. Hannon called the meeting to order at 6:30 PM, with the Pledge to the Flag and a moment of silence, remembering former longtime Attorney for the Town, Anthony DiFilippo, III, who passed away in July.

The Town Clerk has submitted the minutes of the July 10, 2010 Regular Town Board meeting, and the July 14, 2010 Special Meeting. These minutes were approved and filed on a motion by Montgomery, seconded by Uhteg, and carried, 5 ayes, 0 noes.

Only one bid had been received last month on the Chaffee Sidewalks project, and the project had been re-bid. Supervisor Hannon asked Attorney Joseph and Highway Superintendent Hopkins to open and read the three sealed bids that have been received this time. The results were as follows:

C & C Contractors, Inc.	Cowlesville, NY	\$47,252.00
Sunshine Concrete, Inc.	North Tonawanda, NY	\$47,250.80
Campobello Construction Co., Inc.	Buffalo, NY	\$53,406.20

The Supervisor then asked Attorney Joseph to review the bids, along with the Highway Superintendent, and the Board will discuss the bidding later in the meeting.

Supervisor Hannon then introduced Tracy McNerney from the Erie County Dept. of Environment and Planning, who was on hand to announce and explain Erie County's new Microenterprise Loan Program. She stated these are 2% interest loans to be given out to businesses with 5 or fewer employees, including one or more of whom owns the business. These business owners are subject to income guidelines. She stated that the loan money can be used for working capital or the purchase of machinery or equipment. The loan amounts are between the minimum amount of \$5,000.00 and the maximum amount of \$35,000.00, and there is no collateral necessary. Ms. McNerney left pamphlets about the program and stated she is available to come out and help with the application process.

Committee and Department Reports included:

Supervisor Hannon stated she has been working to get the Budget estimate sheets prepared, and has now distributed them to all Department Heads, to be completed and submitted to the Supervisor's office by September 1st. She stated she has met with Ann Cooper regarding the Town's Employee Health insurance. Ms. Cooper reviews and then recommends the best deal for the insurance, which, the Supervisor stated, Independent Health seems to be the best deal at the moment. Supervisor Hannon stated she has also had several meetings with insurance agents in the area interested in reviewing and possibly quoting costs for the Town's insurance coverage.

Councilman Miller reported that we are still waiting for the electrical work to be done to light the new flagpole out in front of this building. He stated that he attended the last Planning Board meeting and stated they are still interested in the Rt. 16 water district question. Mr. Miller stated that a survey of the businesses and residents is necessary, and there needs to be a 51% majority in favor of the formation of the district. Councilman Miller stated he would like to see the Planning Board named as the lead agency for the purposes of the survey. Mr. Miller then made a motion, seconded by Earl, to name the Planning Board as Lead Agency to conduct a survey of the residents and businesses of the proposed Water District. Carried, 5 ayes, 0 noes. Councilman Miller stated that the Old Town Hall is in need of gutters and down spouts and he has been asking for quotes for that, but has received only one back so far, and suggested that it be discussed again next month. The funding for the project will come from the Old Town Hall budget line.

Councilman Earl reported that she met with the Youth Board at its meeting last Thursday. She stated there are 11 children signed up for the Tiny Tots program, and of those 11, 6 are out-of-Town residents. The Youth Board would like to advertize the program more. No one had an objection to that. Ms. Earl stated that plan is to merge the 3 and 4 year olds into one class, and to hold one session only, from 9:30 AM until noon, on Wednesdays, Thursdays and Fridays. She stated that the Youth Board is also recommending that the monthly fee for non-resident children be raised to \$50.00 per month, and the fee be left at \$10.00 per month for residents. On a motion by Earl, seconded by Montgomery, the Board agreed to raise the cost for non-resident children participating in the Tiny Tots Program to \$50.00 per month. Carried, 5 ayes, 0 noes. Upon discussion, some Board members felt that the cost for resident children should also be raised, to \$20.00 per month. On a motion by Earl, seconded by Montgomery, the rate for resident children to participate in the Tiny Tots Recreation Program will be raised to \$20.00 per month. Carried, with Earl, Miller, Montgomery, and Hannon voting aye, and Uhteg voting no.

Councilman Earl stated that the Winter Recreation program was also briefly discussed at the Youth Board meeting, and they are discussing such activities as once a month movie nights, sledding, and an indoor carnival. She stated plans will be finalized at a later date.

Councilman Montgomery reported that the Town now has an updated Disaster Preparedness Plan. He stated they have also completed the NIMCAST and HAZNY courses, and are now in compliance with that. He stated that there will be a Public Assistance program at the Cheektowaga Fire Training Center on August 31, 2010, and stated if anyone was interested in the program, they could contact him for more information. Mr. Montgomery stated that the fence project at Manion Park is now completed. He also reported he is still trying to set up an AARP Safe Driving course, but is having trouble getting something set up.

Councilman Uhteg reported that the August 3rd Concert in the Gazebo at Veterans Park with the Pioneer Community Band was the last concert of the summer, and stated that he has some leads for musical bands and groups for next year's concert series.

Highway Superintendent Donald Hopkins stated he has contacted George & Swede concerning the rubber tired excavator, and stated that the Town should have it in mid-September. He stated that his department is almost finished with all work on Schutt Rd. Mr. Hopkins stated he has worked well with the pool staff this year and with the exception of one problem handled early on, there is a great bunch of kids on staff.

Attorney for the Town Linda Joseph reported that the agreement with SASI for the Respite program is now finalized. She stated that Gernatt has now withdrawn the last of its lawsuits, the defamation claim. Attorney Joseph stated that leaves only a couple of personal injury actions, which are defended by the insurance carrier's attorneys. She stated that those are being worked toward a settlement. She stated she has also been assisting with the Historical Society issue, and that it is legal to transfer the building to the Historical Society, since they are a not-for-profit organization. She stated that they may rent the building out, but not for a profit making venture. Attorney Joseph stated that she will be working on a contract with the Historical Society. She also stated that she and the Board will be working on an insurance carrier for the Firemen's pension plan. She also that there is a question on how the Nationwide funding is done, and an error on the plan documents, making it not adhere to the statute, stating that, as it is currently written, ours is out of compliance with State Law. She stated that all participants, resident and non-resident, must be treated the same, and the Firemen cannot be more restrictive than the statute. She stated that RFP's may need to be sent out to get a better administrator for the Town plan, and that any administrator must have the approval of the State. Ms. Joseph stated that because the plan documents are incorrect, it raises the question of the appropriateness of a new referendum. Upon discussion, Fire Company representatives stated that no one has been effected by the incorrectness of the documents. Ms. Joseph stated she would e-mail Councilman Uhteg a copy of the State Comptroller's opinion on the matter.

Under Public Comments:

Paulette Green of Deerfield Dr. stated that the 18-wheeler, which they have had a problem with for 2 years, is still on their street. She stated they have been give hope that something would be done, then nothing has been done. Ms. Green stated that the Highway Superintendent stated they could park the 18-wheeler at the Highway Garage, they were promised that a letter would be written to the truck driver, but it is still being parked on their street. Supervisor Hannon stated she understands and is sympathetic, but it is not a Town Board issue.

Sheila Vrenna of Savage Rd. stated that she was under the impression that the matter of turning the Old Town Hall over to the Historical Society was waiting for the Society to get its 501 c-3 Not-for-Profit status. Attorney Joseph stated they are already a Not-For-Profit organization and can accept the building without having that status. Ms. Vrenna asked if the Historical Society would be prohibited from renting the building out and making a profit. She was told by the Attorney for the Town that they could rent it themselves but could not allow a profit making entity use the building. Ms. Vrenna suggested that a definition of "commercial" be included in any contract between the Town and the Historical Society.

Newly appointed Town Justice Ronald Thompson thanked the Board for his appointment and for their support, and informed that he has now completed his State certification.

Supervisor Hannon then asked for a motion to approve payment of the bills, and on a motion by Earl, seconded by Montgomery, General Fund Warrant #8 of 2010, including vouchers #405 through #475, totaling \$37,099.87, and Highway Fund Abstract #8 of 2010, including vouchers #98 through #110, and totaling \$45,344.53, were approved for payment. Carried, 5 ayes, 0 noes.

Unfinished business:

Supervisor Hannon stated that she has spoken to Commander Knight of the American Legion concerning the contract between the Legion and the Town . Councilman Uhteg stated he is still working on that.

Supervisor Hannon stated that, according to a new NYS Law regarding the State Retirement System, the Town is now required to set standard workdays for elected and appointed officials, which the Town Clerk will have filed in her office, and will then have to post this resolution on her bulletin board, and on the Town's website. Most of the elected and appointed officials were reported on at the last Board meeting, but new Town Justice Ronald Thompson had not been in that position for 3 months, the length of time that needs to be reported, so he was not included in last month's resolution, and a separate resolution needs to be done for his standard work day. Therefore, the following resolution, to be known as Resolution #61 of 2010, was moved for adoption by Earl, seconded by Miller:

RESOLUTION #61 - 2010
STANDARD WORK DAY AND REPORTING RESOLUTION

WHEREAS, the Town of Sardinia hereby establishes the following as standard work days for Ronald Thompson, appointed Justice, which the Town Clerk will have filed in her office, and will then have to post this resolution on her bulletin board and on the Town's website,

Appointed Official	Last Name	First Name	Reg. Number	Soc. Sec. No.	Standard Work Day	Term Begins/Ends	Days/Month
Town Justice	Thompson	Ronald			6.00	5/1/10 – 12/31/10	10.00

NOW, THEREFORE, BE IT RESOLVED: The Sardinia Town Board approves Ronald Thompson's standard work day and retirement reporting for the New York State and Local Employees' Retirement System.

Upon roll call vote, Earl, aye, Miller, aye, Montgomery, aye, Uhteg, aye, Hannon, aye. So resolved, 5 ayes, 0 noes.

Supervisor Hannon stated there vacant positions that need to be filled, including the Tiny Tots Recreation positions, Caretaker, and ZBA secretary. Therefore, the following resolution, to be known as Resolution # 62 of 2010, was moved for adoption by Montgomery, seconded by Earl:

RESOLUTION #62 - 2010
APPOINTMENTS

WHEREAS, the following appointments are made to fill vacant positions:

Laura Marshall, Rec. Director,(Tiny Tots) PT	\$12 per hour, effective immediately
Amy Pielechowski, Rec. Attend. Tiny Tots PT	\$10 per hour, effective immediately
Donna Lyons, Rec. Attend. Tiny Tots PT	\$10 per hour, effective immediately
Stacey Mumbach, ZBA Secretary, PT	\$11.50 per hour, effective immediately
Albert Hanson, Caretaker	\$13.50 per hour, effective immediately

NOW, THEREFORE, BE IT RESOLVED, the Sardinia Town Board approves the above-mentioned appointments effective immediately to fill vacant positions.

Upon roll call vote, Earl, aye, Miller, aye, Montgomery, aye, Uhteg, aye, Hannon, aye. So resolved, 5 ayes, 0 noes.

The Supervisor stated that Michael Shaw from the Fire Company has been working with her to obtain 2 Automated Electronic Defibrillators for the Town. She stated he has now completed all the paperwork, and has gotten the Town a great price, saving about \$2,000.00 from the cost that was quoted last year. She then asked for a resolution approving the purchase of the two units. The following resolution, to be known as Resolution #63 of 2010, was then moved for adoption by Montgomery, seconded by Uhteg:

RESOLUTION #63 - 2010
APPROVAL TO PURCHASE TWO (2)
PUBLIC-ACCESS DEFIBRILLATION MACHINES

WHEREAS, the Sardinia Town Board recognizes the importance of life-saving equipment in the Sardinia Town Buildings, and

WHEREAS, the request to place a PAD machine in the Community Center (gym area) and a PAD machine in the vicinity of the Town pool has been made, and

WHEREAS, the cost of two PAD machines total is estimated at \$3,761.20, and

NOW, THEREFORE, BE IT RESOLVED, the Sardinia Town Board approves the purchase of two PAD machines at a cost of \$3,761.20.

Upon roll call vote, Earl, aye, Miller, aye, Montgomery, aye, Uhteg, aye, Hannon, aye. So resolved, 5 ayes, 0 noes.

Supervisor Hannon stated that, concerning the transfer of the Old Town Hall to the Historical Society, she was invited to their meeting two weeks ago, and they have voted to accept the transfer of ownership of the building from the Town. She stated that there is between \$5,000 and \$6,000 left in the budget for operation of that building, and feels that amount should go to the Historical Society and stated she is also committed to signing a three-year contract with them for \$25,000.00 per year, having picked three years because that is when her term expires. Councilman Uhteg asked what happens after three years if the next Board decides not to renew the contract, and asked if it could be set up for that much as long as the Town has a good balance. Attorney Joseph stated you cannot make a contract in perpetuity. Councilman Miller stated he would like to see it be renewable in case \$25,000.00 per year is not enough in the future. The Supervisor then asked for a resolution to transfer the building to the Historical Society. The following resolution, to be known as Resolution #64 of 2010 was then moved for adoption by Miller, seconded by Earl:

RESOLUTION #64 - 2010
TRANSFER OF BUILDING TO THE HISTORICAL SOCIETY

WHEREAS, the Town of Sardinia currently owns, maintains the physical condition of and has responsibility for the building that houses the Historical Society, now known as the Sardinia Meeting House; and

WHEREAS, the Historical Society has informed the Town Supervisor that it supports a transfer to itself of the ownership of the Sardinia Meeting House and is willing to agree that its ownership is conditioned upon the Historical Society maintaining its non-profit status and refrain from using the building for any commercial purposes; and

WHEREAS, the Town of Sardinia will benefit by the transfer financially by a transfer pursuant to the foregoing terms and conditions by reason of eliminating potential liabilities associated with ownership of the building and by incurring lower administrative costs even though the Historical Society will continue to enjoy the Town's support by reason of annual funding in the amount of \$25,000 which will be the subject of a three-year contractual agreement between the Town and the Historical Society; and

WHEREAS, the Sardinia Town Board has discussed and agrees with the foregoing terms and conditions for transfer of the ownership and title to the Historical Society of the Sardinia Meeting House; and

NOW, THEREFORE, BE IT RESOLVED: the Sardinia Town Board, hereby approves and instructs the Town Attorney to undertake the transfer of the title of The Sardinia Meeting House to the Historical Society, said transfer being conditioned upon the Historical Society maintaining its non-profit status and honoring its commitment not to use the building for any commercial purposes, and further approves and instructs the Town Attorney to prepare in conjunction with the Historical Society's attorney a three-year agreement between the Town and the Historical Society providing for funding for the Historical Society in the amount of \$25,000 per year.

Upon roll call vote, Earl, aye, Miller, aye, Montgomery, aye, Uhteg, no, Hannon, aye. So resolved, 4 ayes, 1 no.

The Supervisor stated that she has spoken to Mark Wallace from the State of NY Deferred Compensation Program, a program that is like a 401K, but would be of no cost to the Town. She explained that it is an optional program, and for the employee who would choose to sign up for the program, the money would be deducted from their pay as a method of saving. The following resolution, to be known as Resolution #65 of 2010, was moved for adoption by Earl, seconded by Miller:

**RESOLUTION #65 - 2010
TOWN OF SARDINIA ADOPTION OF
THE STATE OF NEW YORK DEFERRED COMPENSATION PLAN**

Whereas, the Town of Sardinia wishes to adopt the Deferred Compensation Plan for Employees of the State of New York and Other Participating Jurisdictions(the "Plan") for the voluntary participation of all eligible employees; and

Whereas, the Town of Sardinia is a local public employer eligible to adopt the Plan pursuant to section 5 of the State Finance Law;* and

Whereas, the Town of Sardinia has reviewed the Plan established in accordance with Section 457 of the Internal Revenue Code and section 5 of the State Finance Law of the State of New York; and

Whereas, the purpose of the Plan is to encourage employees to make and continue careers with the Town of Sardinia by providing eligible employees with a convenient and tax favored method of saving on a regular and long-term basis and thereby provide for their retirement and will not require any action by the Town other than withholding designated amounts from their paycheck; and

NOW, THEREFORE, it is hereby:

RESOLVED, that the Town of Sardinia hereby adopts the Plan for the voluntary participation of all eligible employees; and it is further

RESOLVED, that the appropriate officials of the Town of Sardinia are hereby authorized to take such actions and enter such agreements as are required or necessary for the adoption, implementation, and maintenance of the plan; and it is further

RESOLVED, that the Administrative Services Agency is hereby authorized to file copies of these resolutions and other required documents with the President of the State of New York Civil Service Commission.

Upon roll call vote, Earl, aye, Miller, aye, Montgomery, aye, Uhteg, aye, Hannon, aye. So resolved, 5 ayes, 0 noes.

Supervisor Hannon stated that a resolution for soliciting proposals for administrative services for the Fire Company's awards program is needed. She asked Attorney Joseph to explain. The Attorney stated that in the current contract, the Town must notify them within 30 days or the contract will automatically renew. She stated the bidding will be open to anyone who is qualified and Affordable benefit Concepts can certainly submit an RFP, but she stated she feels their performance has left something to be desired, but it will be open to anyone that the State Comptroller approves as an administrator. Attorney Joseph stated this proposed resolution will give the Town a better, more economical and more efficient option. Supervisor Hannon stated that the Fire Company president and the Fire Chief will be invited to sit in on these interviews. The following resolution, to be known as Resolution #66 of 2010, was then moved for adoption by Montgomery, seconded by Earl:

**RESOLUTION #66 - 2010
TO SOLICIT RFP's FOR AN ADMINISTRATOR FOR
THE FIREMEN'S AWARD PROGRAM**

WHEREAS the contract for the provision of administrative services for the Chaffee Sardinia Fire Company Award program between the Town of Sardinia and Affordable Benefit Concepts Inc., the Town of Sardinia provides that the contract will automatically renew unless the Town provides at least 30 days notice of cancellation;

WHEREAS the Town Board believes it is in the best interest of the Town to solicit proposals from a number of different firms to provide these administrative services;

WHEREAS the Town attorney has reported that the Plan Document drafted by Affordable Benefits does not comply with the requirements of General Municipal Law section 217;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board directs that the Town attorney notify Affordable Benefits that the Town Board intends to solicit proposals from a number of different firms and to provide the required notice under the contract and to further notify Affordable Benefits that the Town does not waive any rights that it has with respect to the deficiency in the current Plan Document and correction thereof, including without limitation, if necessary, covering any cost to the Town to hold a referendum to amend the Plan or other appropriate measures consistent with the Town's rights and interests.

Upon roll call vote, Earl, aye, Miller, aye, Montgomery, aye, Uhteg, aye, Hannon, aye. So resolved, 5 ayes, 0 noes.

Supervisor Hannon stated that the bids for the sidewalks in Chaffee have now been reviewed by the Highway Superintendent and the Attorney for the Town and have been found to all be in order. She stated that a resolution to award the bid was now needed. Therefore, the following resolution, to be known as Resolution #67 of 2010, was moved for adoption by Montgomery, seconded by Miller:

**RESOLUTION #67 – 2010
Awarding the bid for Hamlet of Chaffee Sidewalk Project**

WHEREAS, the Town of Sardinia received three bids for the Hamlet of Chaffee sidewalk construction project, and

WHEREAS, those bids were as follows:

C & C Contractors, Inc.	Cowlesville, NY	\$47,252.00
Sunshine Concrete, Inc.	North Tonawanda, NY	\$47,250.80
Campobello Construction, Inc.	Buffalo, NY	\$53,406.20

NOW, BE IT RESOLVED, the Town Board of the Town of Sardinia hereby awards the bid for the Hamlet of Chaffee sidewalk construction project to the low bidder, Sunshine Concrete, Inc. of North Tonawanda, NY, with the low bid of \$47,250.80.

Upon roll call vote, Earl, aye, Miller, aye, Montgomery, aye, Uhteg, aye, Hannon, aye. So Resolved, 5 ayes, 0 noes.

The Supervisor stated that the Fire Company has submitted a letter asking the Board for approval of an out-of-Town member. She stated she feels that, with the cost of the Firemen's Award Program, the money should not be going out of Town. She stated that she is aware that there are other out of Town members in the Fire Company, and is not saying they are not good people, but stated she wants to set a precedent. She stated she feels the Fire Company should try and recruit in-Town members, not out of Town members. Councilman Uhteg stated that they do try to recruit in-Town residents, but it is difficult. He stated that the Fire Company is allowed to have 7 non-resident members, according to their by-laws, and they currently have 7, with one in question. Supervisor Hannon stated she is not coming down on this person, and stated that all they have to do is move into Town, and they can become a member without the Town Board's approval. Councilman Earl stated that her only concern is that she has turned several people down for jobs this month because they did not live in Sardinia. Al Heary of the Fire Company stated that these people are originally from Town, and want to keep their roots here in Sardinia. Councilman Montgomery stated he was an Arcade Fireman, and they did not allow out of Town residents to join, feeling it caused animosity because they were taking them away from other fire companies. John Marsh of Chaffee stated that if the Fire Company by-laws allow 7 members, there will never be more than 7 members and it is a small cost for good people. Mort Benstead of Chaffee stated that sometimes the people don't live here because there are no rental properties in this Town for young people who don't own yet. Dave Malachowski of Sardinia stated that these people are willing to put their lives on the line for our Town. Supervisor Hannon then called for a vote on the matter, and Councilman Montgomery made a motion not to allow the new out-of-Town Fire Company member, which was seconded by Councilman Earl. Attorney Joseph advised Councilman Uhteg that he should abstain from the vote. The motion not to allow was then carried, 4 ayes, 1 abstention, 0 noes.

There being no further business to come before the Board, on a motion by Montgomery, seconded by Earl, the meeting was adjourned at 7:35 PM. Carried, 5 ayes, 0 noes.

Respectfully Submitted,

Town Clerk

