

9-9-2009 – 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

The Sardinia Town Board held its regularly scheduled Board meeting for September on September 9, 2009 at the Sardinia Town Hall/Community Center. Supervisor Balus called the meeting to order at 7:40 PM, with a Moment of Silence, asking that everyone keep in mind what happened on 9/11/2001. She then led the Pledge to the Flag.

The Town Clerk has submitted the minutes of the August 12, 2009 regular Town Board meeting. Councilman Hannon stated that she wanted to clarify that, concerning the vote on the payment of the LOSAP invoices back in June, she abstained from voting because she had not had any of the information concerning the invoices that she had asked for and that is why she voted the way she did, not because she was adamantly opposed to the LOSAP agreement, as the Supervisor stated at the last meeting. The Supervisor stated that they may have to agree to disagree, because the contract information asked for was confidential and under lock and key in her office, and could not be shown. Councilman Hannon stated that the requested roster of Firemen covered under the agreement had been given to her and Councilman Montgomery, but not until after the vote. On a motion by Hannon, seconded by Montgomery, the August 12, 2009 Town Board meeting minutes were approved. Carried, 5 ayes, 0 noes.

On the agenda was a presentation to Dale Shaw and Betty Olin, owners of the James R. Shaw Co., in recognition of the company's 79 years of service to the community, however the recipients were not in attendance, therefore the Supervisor moved forward to the Supervisor's report, which included:

- Congratulations to the Labor Day in the Park Committee, especially co-chairs Connie Rice and Virginia Domes, for a successful event, despite the rain.
- Congratulations to the Chaffee Water Company and its customers for securing an \$800,000.00 Stimulus grant for renovations to the water system.
 - Supervisor Balus stated that she has been working on the 2010 Town Budget.
 - The Supervisor stated she had discussions with TVGA, the Dept. of Environment and Planning, and the Chaffee Water Company regarding the water system renovations and the sidewalk project.
 - Ms. Balus stated she and Councilman Uhteg had met with Tom Lewis and Dick Sturgis of Waste management to further discuss an amendment to the Host Municipality Agreement; more will be forthcoming on that.
 - She stated the Town has received from State of NY Dept. Of Transportation a letter denying the Town's request to lower the speed limit on Allen Road in Chaffee.
 - The Supervisor stated she had discussions with Kirby Van Vleet and Eric Hanson of Hanson Van Vleet regarding the hydrology report and findings regarding the Special Use Permit for the Waste Management Borrow Pit. She anticipates discussing it further among Board members.
 - The Supervisor noted that there were are a couple of medical bills for firemen's injuries in the vouchers, and stated she called the Bertrand Chaffee Hospital and got the amounts reduced to the Compensation Insurance rate. She stated she feels it is cheaper to pay the bills than to submit them to the Compensation Insurance carrier and pay the increased insurance rates.

The Supervisor then introduced Laura Landers, CPA, of Freed, Maxick & Battaglia, who presented the report of the Audit and Review of Financial Statements. Ms. Landers went through the financial statements briefly, first reviewing the Independent Auditor's Report, then the 2008 Annual Update Document, indicating that, overall, the Town is in very good financial position. She stated there was an ending balance in excess of \$522,000.00 in the General Fund, the Highway Fund has a Capital Reserve of \$135,000.00, and \$720,000.00 in the unreserved Fund Balance. The Highway had an unexpended fund balance at the end of 2008 of \$210,000.00. There were fund balances in all of the other funds, as well. Ms. Landers went over the Required Communications to the Board. She stated there were a few suggestions for procedural changes discussed with management, and she noted that the Town needs to adopt a written investment policy, as required by the State. The Supervisor noted that these reports will be on file in the Town Clerk's office.

- The Supervisor stated that the Planning Board has expressed concerns over the current pay schedule, and she stated that the Planning Board is being asked to submit their pay sheets in a timely manner. She stated they also expressed concerns over the security of their payroll checks being left in the Conference/copier room; therefore they will be mailed from now on.

Discussion points included:

- The fence at Manion Park between the Park and the Chaffee pond is in need of repair, and Councilman Montgomery stated that he has quotes two companies, Custom Fence, and Springville Fence. The quotes were reviewed and Custom Fence's quote was for repair of the existing fence, with the Town removing the brush, while Springville Fence's quote was for entirely new fence. Therefore, it was felt that specs should be written up so that the quotes would be even, and the Highway Dept. consulted to see what part, if any, they could take in the brush and old fence removal.
- Concerning the Chaffee sidewalks project, the Supervisor stated that Attorney DiFilippo had contacted Chaffee

Water's attorney Peter Sorgi. Mr. DiFilippo has been advised that the bids were opened for the water project on September 4, 2009, and that Northrup of Ellicottville was the low bidder, and once the bid review has been completed, Northrup will have a 90 window to complete the project. The Supervisor stated she has asked that TVGA contact the Water Company's engineers so that the sidewalk project can back on track. Mr. Uhteg stated he has spoken to Water Company engineer Mike Metzger and will meet with him when the water system project gets started and show him where the sidewalks are planned.

- Supervisor Balus stated that the Board needed to schedule meeting dates for the 2010 Budget process, and October 7th at 7:00 pm was decided on for a Budget Work Session meeting, and October 29th at 7:00 PM was scheduled for the Public Hearing on the Preliminary 2010 Budget. The Clerk noted that the second Wednesday of the month of November is November 11th, Veterans Day; therefore the date of the Regular November Town Board meeting will be changed to November 12th.
- Concerning the Springville Control Center Agreement, the Supervisor stated that she just received the documents on September 7th and everyone can review and bring back at the next meeting.
- Supervisor Balus noted that before tonight's meeting, there was a quarterly report given by Waste Management, scheduled on a regular quarterly basis in order to open up a dialog between the Town and Waste Management.

Councilman Phelps reported that the 2009 Summer Season is over, and 131 children participated in the Rec and Swim programs. She stated there have been suggestions for next year, including a parent/child swim for younger children, and they will try the sports lessons again next year. Councilman Phelps stated that everything had gone great except the weather. She stated that the Tiny Tots Program will start up again on September 15th, and the fence is now up around the playground at the back of this building. The Supervisor stated that the Summer Program had been a well run, successful program, and gave kudos to Councilman Phelps for her role in making it happen.

Councilman Uhteg reported that the Historical Society roof project will be starting soon; the bathhouse renovation plans will be out before the next Town Board meeting; Labor Day in the Park went very well, and he thanked Connie Rice and Virginia Domes for co-chairing. Mrs. Domes thanked everyone who contributed to the success of the event, including Don Hopkins for bringing the new Highway Truck. She stated that the weather had not cooperated and the Old Timer's Baseball Game had been rained out, but everything else had gone well. She thanked the Town Board for its support.

Councilman Hannon reported that the Senior Flu Clinic will be held on October 30th from 9 AM until 1 PM; the Food For All Program, helping people apply for food stamps on-line, will continue the program here, and she gave a list of dates for the Fall. Ms. Hannon stated that she is working on the possibility of holding a rabies clinic in the Town, and stated she has spoken to the Erie County Health Dept., the Town can be held liable in the case of animal bites, but they have forms to hand out, and will send them to her. Ms. Hannon stated it would be easy to set up and, according to a veterinarian she has spoken with, the cost would be minimal, approximately \$2.00 per vaccine. She stated she feels it would be a nice service for the Town to cover the cost, and would like to set one up for a Saturday in October at the Highway Garage. Board members were in agreement that it should be for Town residents only, and that she should go ahead and set it up. Councilman Hannon also reported that the Senior Citizens' next bus trip will be on September 17th, it was advertised, and 51 people are signed up to go, September 22nd is their next luncheon meeting, November 17th is the Seniors' Thanksgiving Dinner at the Hearth, and anyone interested in attending should call Clint or Jeanne Salmon. Ms. Hannon stated that 26 people so far are signed up for the Defensive Driving Course that will be held in this building on Tuesday September 29th and Thursday October 1st. She also reported that she has purchased the TV and DVD/VCR combination, as approved at the last meeting, and has submitted a voucher for reimbursement. Councilman Hannon stated she has been looking for an inexpensive cart to put the equipment on and found one in the Valu flier for \$23.00. After discussion, she stated she will purchase that, and if it is not sufficient for the TV, will look for something different, and the Clerk will use that one in the vault. Councilman Hannon stated she has received copies of Employee Handbooks from the Towns of Eden, Boston, and Concord, and asked for materials from previous rough drafts. Concerning the hydrologists, she stated that she and Councilman Montgomery drove around with Hanson and Van Vleet for a review of the areas in question, as well as meeting with representatives of Waste Management. Councilman Hannon stated she felt that Waste Management should be asked to reimburse the Town for the cost of the Hydrology report as a consultant's fee would be. Attorney DiFilippo stated that he understands that the Town has just received the report, and stated he feels that a copy should be sent to Waste Management for comment, as well as the Planning Board. He stated that only the Lead Agency in the permit process can reimburse for consultants, and suggested that a letter be sent to the DEC. Councilman Hannon stated that she will put together a letter to the DEC. Mr. DiFilippo stated that the Town Board cannot take action on the Borrow Area Special Use Permit until the DEC issues its Findings on the matter. Ms. Hannon stated she has also spoken to Hanson Van Vleet about the wells on Pratham Rd. that have gone dry. She stated that they would be willing to come in and look over the seismic reports, and well information. She stated that was up to the Board. Councilman Uhteg stated he had spoken to the Cornell Cooperative Extension, who told him they have heard this more often lately, but they have not gotten back to him. It was decided to wait until Cornell contacts him. Councilman Hannon stated that, as to the rabies clinic, she would write a letter to the Erie County Health Dept. asking to include the Town of Sardinia as a site for its free clinics next year.

Councilman Montgomery reported that three requests for house numbering signs have been received, and asked if the Town will be paying for them even if they are able to pay themselves. The Supervisor stated she feels that the Town should provide uniform signs for everyone. Sign color was discussed, with the consensus being that green and white reflective signs should be used. She stated that there is \$10,000.00 in the budget for house numbering signs, and suggested that Councilman Montgomery find a company to provide the signs.

Attorney for the Town Anthony DiFilippo, III updated the Board on Legal matters affecting the Town. He stated that in the Gernatt matter, the record has been printed and he has approved the Gernatt brief, therefore he expects that within the next couple of days, the Appeal will be filed and served. He stated that in the Gernatt Notice of Claim, there has been a suggestion by the insurance company's attorney, which he would like to discuss with Board members in Executive Session. Mr. DiFilippo stated there is also a memo from Assessor Thelma Hornberger involving potential litigation in an assessment matter that needs to be discussed in Executive Session. Attorney DiFilippo stated that the Waste Management litigation concerning the Zoning matter has been put off and will be argued in front of Judge

Dillon sometime in early October. He stated that as to the matter of the Co-Generation plant Appeal, it has been filed and answering briefs have been received, with the Town having until September 19th to file a reply brief. He stated he has discussed the case with the Concerned Citizens attorney and suggested that if settlement talks have taken place, they should expedite because the case is scheduled to be heard in Rochester on October 19th. Mr. DiFilippo noted that the Waste Management Borrow Area matter had been covered earlier in the meeting. He reiterated that if the Findings are received from the DEC, please make sure he is notified and a copy set on to the Planning Board and then Councilman Hannon can draft a letter asking for reimbursement for the hydrology report. Attorney DiFilippo stated he has also handled routine matters, including reviewing the contracts with William Arlow, and the pool house architect.

The Town Clerk's monthly report for the month of August 2009 was submitted, as well as the Code Enforcement Officer's report. There were no Planning Board minutes, and the ZBA submitted the minutes of Appeal #309, heard on August 4, 2009. On a motion by Phelps, seconded by Montgomery, all reports and minutes were received and filed. Carried, 5 ayes, 0 noes.

After review by Board members, on a motion by Hannon, seconded by Uhteg, General Fund Warrant #9 including vouchers #426 through #477 and totaling \$40,563.72; and Highway Fund Abstract #9, including vouchers #121 through #135 and totaling \$59,491.36 were approved for payment. Carried, 5 ayes, 0 noes.

Under Privilege of the Floor:

Sheila Vrenna of Savage Rd. stated that she would like to see the Board set up an area wide landowner's seminar to help landowners better negotiate mineral rights, and believes that there may be resources available from the Cornell Cooperative Extension, as well as the Farm Bureau. Supervisor Balus asked Ms. Vrenna to work on that. Ms. Vrenna also suggested that the Town start brainstorming on a better resolution of the matter of trucks, etc., in Hamlet-Residential areas. She stated that Arcade and Springville have weight limits and have ordinances.

Robert Schiener of Deerfield Dr. spoke, stating he was representing several Deerfield Drive residents who are not happy with the way the Board and Planning Board handled the issue of the semi trucks on their street. He stated that Deerfield Drive was the first subdivision in the Town, 50 years ago, and there was a Restriction Agreement filed in the Erie County Clerk's office in liber #6045, page #119. Mr. Schiener stated that the Greens were the first troubled but not the only ones. He stated he is sick and tired of having this truck there. He is asking everyone that these trucks be removed. He stated that if they are going to have trouble, they are going to court.

Paulette Green of Deerfield Dr. stated that Mr. Schiener said it all. She stated that another truck that had been parking down the road a mile from them has now left. She stated that they have heard one phone call was made and it is now gone, but they are now dealing with 2 trucks, and asked the Board why none of them took the responsibility of finding out why it left. Mrs. Green stated she does not feel its fair that they still have to deal with two. Supervisor Balus stated that in the Green's case, they are dealing with individuals who believe the law is in their favor, and the trucker who removed his truck was courteous enough to do so. She stated that this matter has been a real challenge for this Board, and is disappointed that there has been no action by the individuals involved to remedy the matter. The Supervisor then made a challenge to all those in the audience to contact the truck drivers, to encourage them to park elsewhere, and to be courteous to their neighbors. Mrs. Green asked the Board to take the responsibility to see who called the truck driver further up the road, and find out who called and asked them to move. The Greens then accused the Highway Superintendent of retaliation against Mr. Green last winter, and the Supervisor asked that these accusations be put in writing.

Robert Kaiser of Savage Rd. stated that at the Labor Day at the Park event, he was impressed with the new Highway truck and asked if the Town could get permission from the County to plow his road. Mr. Kaiser also gave the Board members a website where they might find the house numbering signs at a low price.

Bill Arlow of Olean Rd. and his partner Peter Tarnaskyj spoke on the status of the Parks Master Plan. They stated that they would be finishing up their base maps of the parks in the next few weeks and will then be bringing those maps in to be worked on by the public. Mr. Tarnaskyj stated they like to get as much input as possible from the residents. He noted that Mr. Arlow is a Sardinia resident and he is a resident of the Town of Wales, so they are both familiar with the needs of rural residents. Mr. Arlow stated that residents can go on line and e-mail them at Sardinia Parks @ Prodigy.net.

Supervisor Balus asked the Board if there was interest in adopting a resolution concerning the road salt resolution urging the County to sell salt to the Towns at the same rate it pays for it, rather than the \$3.00 per ton mark up. The Board decided it would like to research it further and discuss it with the Highway Superintendent at the next meeting.

The Supervisor stated that, concerning Tiny Tots Personnel for this year, Councilman Phelps has recommended that the town hire Leann Hodge as Substitute Tiny Tots instructor at the hourly rate set at the organizational meeting. A motion was made by Uhteg, seconded by Hannon, to Leann Hodge as Substitute Tiny Tots instructor, effective immediately, at the hourly rate set at the organizational meeting. Carried, 5 ayes, 0 noes.

The Supervisor stated that the Board would be going into Executive Session and anticipated no action would be taken. She made the following announcements before the Executive Session:

Announcements were as follows:

- The next Regular Town Board Meeting will be held October 14, at 7:30 PM
- Planning Board meetings will be held on September 16 at 7:30 PM and October 7, 2009 at 7:30 PM.

Other Information included:

- The Chaffee-Sardinia Fire Company's annual Tool Raffle will be held at the Sardinia Fire Hall on Sunday, September 13th from noon until 4 PM.

- The Historical Society will be holding its 2nd annual Fish Fry and Mum Sale at the Sardinia Meeting House on Friday, September 18th at 4 PM.
- St. Jude's will be holding its annual Chinese Auction at the Town Hall/Community Center on Saturday, September 26th
- The Defensive Driving Course will be held at the Town Hall/Community Center on September 29th and October 1st from 6 PM until 9 PM each night
- The Senior Flu Clinic will be held on October 30th
- There will be a Household Hazardous Drop-off Day at Waste Management on September 26th from 8 AM until noon.

On a motion by Phelps, seconded by Hannon, and carried, 5 Ayes, 0 noes, the Board moved into Executive Session at 9:25 PM to discuss the Insurance Company's suggestion concerning the Gernatt Notice of Claim against the Town, and litigation on an assessment matter. The Board resumed Regular Session at 9:45 PM, stating that legal matters had been discussed but that no action had been taken.

There being no further business to come before the Board, on a motion by Phelps, seconded by Uhteg, the meeting was adjourned at 9:46 PM. Carried 5 ayes, 0 noes.

Respectfully Submitted,

Town Clerk