

12-10-2008 – REGULAR TOWN BOARD MEETING

Present:

Councilman Ronald L. Kenyon
Councilman David L. Montgomery
Councilman Norman J. Uhteg
Supervisor Kathleen M. Balus

Absent:

Councilman Heather M. Phelps

Also Present:

Attorney for the Town Anthony DiFilippo, III
Highway Superintendent Walter J. Baker
Town Clerk Betsy A. Marsh
Approx. 50 guests

The Sardinia Town Board held its regularly scheduled Board meeting for December on December 10, 2008 at the Sardinia Town Hall/Community Center. Supervisor Balus called the meeting to order at 7:30 PM, with a Moment of Silence, asking that everyone remember our Servicemen and Women, and all of those Americans who are being impacted by the downturn in the economy. She then led the Pledge to the Flag.

Supervisor Balus explained to the audience that this is a Town Board meeting, not for audience participation, and that only Town business, not private business such as Hometic.com or the Sardinia Standard or the Arcade herald or the Springville Journal, will be discussed. She stated that Privilege of the Floor is a Privilege, and that the Constable is on hand, and anyone not behaving appropriately will be asked to leave.

The Town Clerk has submitted the minutes of the November 12, 2008 Regular Town Board meeting, and the minutes of the November 5, 2008 Public Hearing on the 2009 Town Budget. These minutes were approved and filed on a motion by Uhteg, seconded by Kenyon, and carried, 4 ayes, 1 absent, 0 noes.

The Supervisor gave her report for the month, which included the following:

- The Community Cause for last month: Supervisor Balus stated that Lynette Crelly of the Trading Post could not attend this evening, but the Supervisor will take the check to her. She also stated that the Community Cause committee is looking for new volunteer members to head up the Community Cause for next year.
- The Supervisor reported that she has met with CDBG representatives at the Genesee Rd. Park for an on-site assessment and review of the grant proposal to renovate the pool house. She stated the Town should hear in January if it has been awarded a grant or not.
- She also reported she had met with Jennifer Pegg, Chase Bank account specialist, and Laura Landers of Freed Maxick & Battaglia, PC to discuss Town investments and the security of the Fund Balance Reserve and the streamlining/efficiency of the banking process and procedures. She stated that the Town's accounts are safe and are 100% collateralized.
- The Supervisor stated she met with Eric Slocum from Knight Agency to discuss and review the Town's insurance policy and coverage, and stated that the cost is down \$2,000.00 for this coming year.
- Supervisor Balus stated she discussed with Laura Landers the audit of WM, and stated that the results will be presented at the Feb 2009 Board Meeting.
- The Supervisor stated she met with Don Brooks of Tomkins Insurance Agency, to present and review the C-S Fire Company Service Award Program with Councilman Montgomery.
- Supervisor Balus stated she investigated the allegation of improper use of copy machine, and stated it is her opinion that there is no evidence to substantiate any further action.
- She stated that she met with a copy machine representative to review the capabilities to set-up user permission codes to monitor users. She explained that each department will have a code number and will have to enter the code in order to make copies.
- The Supervisor stated she has researched with phone vender the capabilities of the system to facilitate a dedicated incoming line for the Courts, and to set-up a separate phone number/line to start accepting credit payments for the Courts.

Supervisor Balus thanked the Christmas tree decorating committee, including for decorating the tree this morning, including Jim and Sheila Vrenna, Dave Malachowski, Chuck Tobin, and Norm Uhteg. She also stated she has received a request form the Sardinia Historical Society asking the Town Board to support a building name change. Museum Curator Dan Degolier stated that they would like to change the name of the Old Town Hall, and would like to perhaps have a contest to choose the new name. He noted that, for instance, "The Meeting House" has been suggested. The Board felt that changing the name would get rid of some of the confusion of people going to that building for court and other business. On a motion by Uhteg, seconded by Kenyon, the Town Board voted in support of a name change for the Old Town Hall. Carried, 4 ayes, 1 absent, 0 noes.

Discussion included:

- The roof at the Town Hall/Community Center leaks and perhaps need flashing. Councilman Uhteg that they have done some repairs and it does not seem to be leaking anymore. He stated he would continue to keep track to make sure.
- The Supervisor stated that concerning the matter of commercial trucks in a residential area, she asked the Attorney for the Town to explain where that stands. Mr. DiFilippo stated that he has spoken to the attorney for the truck owners, who has written to the Greens stating that they are still willing to meet about it to hopefully come to a mutually agreeable solution. Mr. DiFilippo stated that the Town's hands are tied and that

at this point, the only options are for the two parties to meet with their attorneys or a mediator and come to an agreement, or for the Town Board to consider adopting weight limits on the street.

- The Supervisor stated that the Board must schedule the annual End of the Year meeting for payment of the last of the 2008 bills. After brief discussion, the meeting was scheduled for Tuesday December 30, 2008, at 7:30 PM. The Town Clerk stated she would advertise the meeting.

Councilman Phelps was absent but sent a brief Youth report, which was given by Councilman Uhteg. He stated that the Youth Committee has made the decision not to have the Friday Night Recreation Program this year. He stated that apparently they have not received many applications Recreation attendant position. The Committee is also asking that the Genesee Rd. Park bathrooms be opened on the weekends for people who want to use the hill for sledding. Mr. Uhteg stated that this would also necessitate the plowing of the driveway. Mr. Uhteg reported that the Youth Committee is in the process of planning a Recreation Dept. trip to Splash Lagoon for sometime in February. Lastly, the Tiny Tots Recreation Program has requested approval for payment of between \$75.00 and \$150.00 for Santa's visit on December 18th. Supervisor Balus stated that per the procurement policy, there was no need to approve the Santa payment. She also stated that Caretaker Dennis Dick will be asked to open the park bathrooms.

Councilman Uhteg then gave his Councilman report. He stated that concerning the Timelessview Drive street lighting, everything has been submitted to NYSEG, but nothing has been heard back. He also stated he has contacted the Highway Employees' Association; there is still one item which needs to be hammered out for their contract. Mr. Uhteg informed that at the Old Town Hall, they will be placing supplementary heat in the restrooms so that they won't freeze.

Supervisor Balus stated she has signed the contract with Panamerican Environmental Engineering for water testing. Councilman Kenyon stated that they are looking for 2 down gradient wells and 1 up gradient well. He suggested that the upgrading well be at Manion park, and that the Girl Scout Camp be one of the down gradient wells. The Supervisor stated she would like to see the Town come up with a good testing program moving forward, and feels that the Town should be talking to Waste Management about formulating a plan. She stated she hopes to meet with Tom Lewis and another Councilman to get something in place. The Supervisor stated she is not sure when the Panamerican testing will take place, since they told her they do not test in the winter. Tom Lewis stated they can test in the winter but may choose not to due to property access problems during that time of year.

Supervisor Balus stated she wanted to sincerely thank Councilman Kenyon for filling in on the Board this year. She stated there is a lot of work that needs to be done by the Board and the work load is too much for just four, and she stated she appreciated him taking the seat and helping the Board out. Mr. Kenyon thanked the Board for appointing him and allowing him to serve the Town in that capacity. Ms. Balus thanked him for serving as her Deputy Supervisor, also.

Councilman Montgomery reported on the proposed house numbering project. He stated that the Town currently has an Ordinance requiring the posting of house numbers. He also stated that Wyoming County is proposing a County-wide house numbering program similar to the one proposed here by the Fire Company. Mr. Montgomery stated that the County wanted the Towns to do it but they refused due to the liability issue. He asked if the Town would be liable if they put up the signs. He stated that Wyoming County is using the Highway Superintendents to erect the signs. Councilman Uhteg stated that East Concord is doing a house numbering project and have offered to include Sardinia and would be willing to write a grant for the funding. House numbering through the 9-1-1 system was discussed. Attorney DiFilippo stated that, concerning the liability issue, the liability is currently with the homeowner, but would be on the Town if the ordinance is changed. He stated he is waiting for wording in order to draft new house numbering legislation. Councilman Kenyon stated he has spoken to Cattaraugus County Firemen and they have told him that the uniform house numbers must be on road right-of-way. Highway Superintendent Baker stated that road right-of-way is still owned by the property owner, not the Town, and the Town or the County cannot give permission to erect the signs. Attorney DiFilippo stated that you must obtain consent of the homeowner to erect the house numbering signs. The Supervisor suggested that the information be sent to the Attorney.

Attorney for the Town Anthony DiFilippo, III gave a report of legal matters affecting the Town. He stated he had notified the Board that there will be a pre-trial conference on December 16th, in the Zoning litigation in front of Judge Dillon. He stated that in today's mail, he received a Note of Issue, and certified that they are ready for non-jury trial. He stated he assumes that will be acceptable to the Town, and the case will be ready for trial in 2010. Attorney DiFilippo stated that in the status of the Gernatt litigation, he received a fax from the ZBA's attorneys containing the Order of Judgment. He stated that they then reviewed that and sent over the proposed changes. Mr. DiFilippo stated he expects that in a week to 10 days, the Town will receive the Notice of Entry in that case. The Attorney for the Town stated he had also copied the Board on correspondence regarding routine matters, including with the insurance companies in the matters of the Assessor's accident in 2007 and the Tiny Tots accident, the Deerfield Drive matter, the service contract for the generator, and the Firemen's Service Award, which he will speak on later in the agenda.

The Town Clerk read her monthly report for the month of November 2008, and CEO Marv Zielonka has submitted his report for November 2008.

Highway Superintendent Walter J. Baker gave a report of Highway Department activity for the month, stating that November was a very busy month, snow-wise. Mr. Baker spoke concerning the closing of streets and the re-routing of traffic by the Fire Company, and stated that Middle Rd. and some of the other side roads are not designed for the heavy truck traffic when they closed Rt. 39. He stated that for two years in a row, he has requested that they meet with him to get on the same page about this issue, and asked again that they call the Highway Department, his home, or his cell phone and notify him when they are closing a road. The Highway Superintendent then thanked his crew for covering for him while he has been receiving radiation treatments, and stated they are almost complete and that he is doing well. Councilman Kenyon stated he would coordinate a meeting between the Highway Superintendent and the Fire Company.

The Planning Board has submitted the minutes of its September 17th, October 1st, November 5th, and November 19th

meetings. There was discussion that Board members had not received the September 5th meeting minutes, and it will be checked into by Planning Board member Darren Farthing and the Town Clerk. The minutes received were filed on a motion by Uhteg, seconded by Montgomery, and carried, 4 ayes, 1 absent, 0 noes.

After review by Board members, General Fund Warrant#12, including vouchers # through # , and totaling \$22,862.85; and Highway Fund Abstract #12, including vouchers # through # , and totaling \$7,776.06, were approved for payment on a motion by Kenyon, seconded by Uhteg, and carried, 4 ayes, 1 absent, 0 noes.

Under Privilege of the Floor:

Sardinia resident Clint Salmon thanked the Town Board for picking up a share of the tab for the 88 people that attended the Senior Citizens Thanksgiving Dinner at the Hearth Restaurant. He also thanked Waste Management for paying for the portion that each senior had expected to pay. Mr. Salmon stated that each senior had brought an item of non-perishable food, which will be used to put together Christmas boxes for those in need. Mr. Salmon also asked why the Rural Transit Van display at the Senior Flu Clinic had been questioned about politics. The Supervisor stated she was unaware of the matter, and will look into it and get back to him.

Town resident Jim Farthing asked why the Sherriff's substation sign out front still has former Sheriff Patrick Gallivan's name on it, and suggested that someone contact Sherriff Howard to see if he'd like his name on the sign.

Town of Sardinia resident Gene Parzych asked questions concerning the Firemen's Service Award Program, including whether there will have to be a Public hearing, etc.,. The Supervisor stated that there will be a Public Hearing, and Councilman Uhteg noted that there had been a public informational meeting. The Supervisor stated that this is something that the public must vote on. Mr. Parzych asked if the Town can afford this. Supervisor Balus advised him that the matter will be discussed later in the agenda.

In Unfinished Business:

The Supervisor stated that she would like to have the Town's financial records audited and attested to, including the Annual Update Document. She stated that the cost would not exceed \$6,800.00 and asked that the Board support such an audit, and that Laura Landers of Freed Maxick & Battaglia, PC be hired to Audit the 2008 Town Financials. Councilman Kenyon asked about the Professional Clause in the contract and asked if there is an end date to that clause. It was discussed and the Attorney explained that it is a typical professional clause wherein you cannot hire Laura Landers away from the Accounting Firm, unless it does not cause harm to the Firm. Mr. DiFilippo indicated he had no problem with the clause. The following resolution, to be known as Resolution #50 of 2008, was then introduced by Uhteg, seconded by Kenyon:

RESOLUTION #50 - 2008

RESOLVED, the Sardinia Town Board hereby agrees that Laura Landers of Freed, Maxick, and Battaglia, PC, be contracted to perform an audit of the 2008 financial statements of the Town.

Upon roll call, Kenyon, aye, Montgomery, aye, Phelps, absent, Uhteg, aye, Balus, aye.

The proposed Chaffee-Sardinia Fire Company Service Award Program was then discussed. The Supervisor asked the Attorney for the Town if the Town Board can vote on the matter, and what they would be voting on. Attorney DiFilippo stated he contacted Don Brooks of the Tompkins Insurance Agency and has been in contact with Damien Ulatowski, President of Firefighters Benefit and Insurance Services. From the information they gave him, Mr. DiFilippo has drafted a proposed resolution. He stated that the Town Board does not vote to approve the proposal, but votes to put the matter up for a referendum voted on by the public. He stated that the proposal had a start date of January 1, 2009, which, obviously, will not be possible, however, if approved by the voters, can go back 90 days. Attorney DiFilippo stated that the Board must pick a date for the referendum. As to who may vote, Mr. DiFilippo stated that Councilmen Uhteg and Kenyon are both Fire Company members, and Councilman Phelps' husband is also a member of the Fire Company. He stated that Councilman Uhteg had found Section 216 of the General Municipal law which states that no member of a Town Board is prohibited from voting to sent the matter to referendum by virtue of being a member of the Fire Company if more than 40% of the Board would otherwise be prohibited from voting upon such resolution. Mr. DiFilippo noted that any Fire Company member voting on the resolution must disclose his membership status, in writing, to the Town Board, and it must become a part of the official record. Councilman Uhteg stated that the Board of Elections needs to be notified 36 days in advance that there will be an election. Councilman Montgomery asked when the Board intended to hold the referendum, and stated that it would save the taxpayers money if it were held in November versus a special election. He also stated he would like to see other plans, including plans that other Towns have in place, stating he is new and it got thrown at him last week. It was agreed that the Board could wait until the December 30th End of the Year meeting to vote on a resolution. Councilman Uhteg stated the Fire Company looked at 5 different plans and chose this one, and that the State runs the plans. Mr. Montgomery asked how the plan would be funded, and the Supervisor stated it would come out of the General Fund budget. Funding of the plan was discussed, and the cost to the Town for the plan is \$98,564.05 per year for 10 years, or \$73,603.05 per year for 20 years. Supervisor Balus compared it to a mortgage, and explained that the longer the term, the more interest is paid, and that nearly \$1 million would be saved by choosing the shorter term. Attorney DiFilippo has prepared a proposed resolution, and stated he would like to speak to Mr. Ulatowski again about the difference in the length of the plan. He stated he will not be able to attend the December 30th meeting, but could prepare both resolutions, and the Board can decide which to adopt at the December 30th End of the Year meeting. He also reminded that the referendum would have to be held within 90 days of the January 1, 2009 start date for the plan in order for it to be retroactive. Councilman Kenyon reminded that this vote is to send the matter to referendum to be voted on by the taxpayers. Supervisor Balus stated that it bears repeating that the Board, by adopting one of these resolutions, is only sending it to referendum, not saying these monies should be expended, only saying that the Board is comfortable with the chosen plan and the administrators of the plan. Attorney DiFilippo reminded that Councilmen Kenyon, Uhteg and Phelps will need to file disclosure

statements if the Board decides to vote on the matter at the End of the Year meeting on December 30th. The Highway Superintendent has submitted the annual Agreement to Spend Town Highway Funds for the year 2009. The Agreement includes the expenditure of \$228,700.00 for general repairs upon 17.5 miles of Town Highway, a bridge replacement on Cross Rd., and chip sealing and skid paving on various roads. The following resolution, to be known as Resolution #51 of 2008, was introduced by Kenyon, seconded by Uhteg:

RESOLUTION #51 - 2009

RESOLVED, the Sardinia Town Board, pursuant to the provisions of Section 284 of the Highway Law, hereby approves the Agreement to Spend Town Highway Funds for the year 2009, and hereby agrees to execute said Agreement.

Upon roll call, Kenyon, aye, Montgomery, aye, Phelps, absent, Uhteg, aye, Balus, aye.

The Supervisor stated that the Highway Superintendent Baker has hired two Part-time new hires for the Highway Department, and the Board must hire them. She stated that the new hires are Robert Baler and DeAlton Bean. On a motion by Kenyon, seconded by Montgomery, Robert Baker and DeAlton Bean were hired as Part-time Highway Employees at \$12.00 per hour, effective November 1, 2008. Carried, 4 ayes, 1 absent, 0 noes.

The Supervisor stated that she is proposing the creation and streamlining of bank accounts. She explained that she is proposing closing the three checking accounts, General, Highway and Trust & Agency, at the Bank of Castile, but proposes keeping the Pool savings account at Five Star Bank open so that the recreation personnel don't need to travel so far. She stated that Chase Bank is offering three checking accounts, a General account, Highway account, and a payroll account, which will be paid interest, with free checks. Supervisor Balus stated that the Town would consolidate the money market accounts into only two, General and Reserve, rather than the current five. She stated that Chase Bank will be providing a machine which will scan checks for deposit, and the bank will then provide e-mail deposit receipts. She stated she needs to get the permission of the Board to make these banking changes, and therefore, a motion was made by Uhteg, seconded by Kenyon to allow the Supervisor to make those banking changes. The motion was carried, with Kenyon, Montgomery, Uhteg, and Balus voting aye, and Phelps absent.

Questions for the Board included:

Resident Gene Parzych asked that the questions he presented during the Privilege of the Floor portion of the meeting be given to Board members, and the Supervisor stated they would be. He also asked if the Fire Company has been audited, and was told by Councilman Uhteg that they are audited and the Board is given an audited copy of their financial statements each year.

Town Resident Tom Lewis if anyone has asked what a 1 time payment towards the Firemen's Service Award Program would be. He stated that the Town is in a position to do that, and could save even more money doing that. Supervisor Balus stated it would be worth looking into.

Sardinia resident Denise Schiener commented that the house numbering signs will be behind or under snow banks. It was discussed and the Supervisor stated it would not be perfect be better than we have now. It was suggested that the current ordinance be enforced. Councilman Uhteg stated that the CEO claims not to give CO's if there is no number on the house, but he still sees lots of houses with no numbers on them.

Town resident Mike Hannon asked why the vote on the Firemen's Service Award program was not postponed until January, when the new Board is seated. He stated there would be less conflict of interest and there would be time for everyone to be brought up to speed on the plan. He stated that the Supervisor had said at a previous meeting that the Board would wait until January. Mr. Hannon stated that it will be harder to get people out to vote in February. Councilman Uhteg stated that Board has been working on the matter for the last year.

The supervisor announced that the next meetings are scheduled as follows:

2008 End of the Year Meeting – December 30, 2008 at 7:30 PM

2009 Organizational Meeting - January 14, 2009 at 7:00 PM

Regular Town Board Meeting - January 14, 2009 at 7:30 PM

Planning Board meetings:

Dec 17, 2008 at 7:30 PM

Jan 7, 2009 at 7:30 PM

Other Information:

Museum Curator Dan DeGolier 2009 is a Town of Sardinia Bi-Centennial year, that is, it is the 200th anniversary of the first settlers in the Town and stated that he hopes some celebrations of that anniversary will be planned for the year.

There being no further business to come before the Board, on a motion by Uhteg, seconded by Montgomery, the meeting was adjourned at 9:15 PM. Carried, 4 ayes, 1 absent, 0 noes.

Respectfully Submitted,

Town Clerk

