

## Town of Sardinia

12320 Savage Road  
PO. Box 219  
Sardinia, NY 14134  
Tel. (716) 496-8900  
Fax (716) 496-8917



Supervisor: Mary L. Hannon  
Councilmen: Cheryl L. Earl  
Daniel L. Miller  
David L. Montgomery  
Douglas J. Morrell  
Town Clerk: Betsy A. Marsh  
Hwy. Supt.: Donald W. Hopkins

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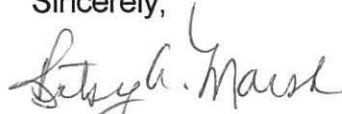
**March 9, 2012**

Erie County Legislative Clerk  
Robert Graber  
92 Franklin St., 4<sup>th</sup> Floor  
Buffalo, NY 14202

Dear Mr. Graber,

Enclosed, please find a certified copy of a resolution adopted by the Sardinia Town Board, stating its support for Emergency Responders in a recent court decision. Thank you for your attention.

Sincerely,



Betsy A. Marsh  
Town Clerk

State of New York  
County of Erie  
Office of the Clerk of  
The Town of Sardinia

ss:

This is to certify that I, Betsy A. Marsh, Clerk of the *Town of Sardinia*, in  
*the said County of Erie*, have compared the foregoing copy of resolution  
with the original resolution now on file with this office, and which was  
Passed by the Town Board of the *Town of Sardinia* in said *County of Erie*,  
On the 8<sup>th</sup> day of March, 2002~~2012~~  
and that the same is a correct and true transcript of such original resolution  
and the whole thereof.

(S E A L)

*In Witness Whereof*, I have hereunto set my hand and affixed the  
seal of said *Town* this 9<sup>th</sup> day of March, 2002~~2012~~

  
Clerk of the Town Board

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## TO WHOM IT MAY CONCERN:

I hereby certify that at a meeting of the Sardinia Town Board, held at the Town Hall in the Town of Sardinia on the 8<sup>th</sup> day of March 2012, a resolution was adopted of which the following is a true copy:

### Present:

Councilman Cheryl L. Earl  
Councilman David L. Montgomery  
Councilman Douglas J. Morrell  
Supervisor Mary L. Hannon

### Absent:

Councilman Daniel L. Miller

Resolution moved for adoption by Montgomery, seconded by Morrell:

### SUPPORT OF EMERGENCY RESPONDERS IN RECENT DECISION OF KABIR VS. COUNTY OF MONROE

**WHEREAS**, in the recent decision of Kabir v. County of Monroe, the Court of Appeals of the State of New York has by its construction of Vehicle & Traffic Law Sect. 1104, restricted the "reckless disregard" standard of care applicable to emergency vehicle operators while responding to an emergency to the four criteria expressed at Sect. 1104(b); and

**WHEREAS**, the effect of such a construction is inconsistent with public policy, imposes upon emergency responders the duty to exercise the utmost care during emergency operations, imposes upon emergency responders and municipalities the threat of civil liability for what amounts to a mere failure of judgment, deters emergency personnel from acting decisively and taking calculated risks in order to save life or property or to apprehend miscreants and gives rise to practical problems as to when, how, and under what circumstances the reckless disregard standard or the negligence standard is to be applied when an accident is or is purportedly attributable to multiple causes, some involving privileged acts and some not;

**NOW, THEREFORE, BE IT RESOLVED**, the Sardinia Town Board urges the New York State Legislature to amend the New York State Vehicle & Traffic Law, particularly Section 1104 to clearly articulate that if an authorized driver involved in a motor vehicle accident is operating an "authorized emergency vehicle" while involved in an "emergency operation" as those terms are defined within the Vehicle & Traffic Law, the driver is entitled to the application of the "reckless disregard" standard of care, and

**BE IT FURTHER RESOLVED**, that to that effect, Section 1104 of the Vehicle & Traffic Law should be amended as follows:

The language of Section 1104(a) and (b) shall be stricken and replaced with the following language:

"Unless otherwise made specifically applicable, the provisions of this title (Title VII – "rules of the road") shall not apply to the driver of an authorized emergency vehicle when involved in an emergency operation." And

**BE IT FURTHER RESOLVED**, that this resolution be submitted forthwith to the New York Governor Andrew M. Cuomo, Senate Majority Leader Dan Skelos, Minority Leader John Sampson, Assembly Speaker Sheldon Silver, Majority Leader Ron Canestrari, Minority Leader Brian Kolb and the Western New York Delegation, along with the Erie County Legislators;

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