**8/08/2019 AUGUST REGULAR MEETING**

Present:

Councilman Leonard R. Hochadel

Councilman Douglas Morrell

Councilman Mandy Quinn-Stojek

Supervisor Beverly A. Gambino

Absent:

Councilman Jamie Emmick

Also Present:

Highway Superintendent Donald Hopkins

Town Clerk Jennifer L Bray

Approx. 8 guests

Supervisor Gambino called the meeting at 6:30 PM, with the Pledge to the Flag led by Tony Korcz.

Supervisor Gambino stated that the first item on the agenda was for approval of the minutes from the July 11th regular board meeting. **On a motion by Hochadel, seconded by Morrell, the minutes were approved, as submitted. Carried, 4 ayes, 0 noes, 1 absent.**

Supervisor Gambino stated that the next item on the agenda is to approve the payment of the bills. **On a motion by Quinn, seconded by Morrell, Warrant #8 of 2019, including vouchers #415 through #483, totaling $129,272.93, of which $28,483.63 was for the General Fund, $98,417.26 was for the Highway Fund, $1402.49 was for the Fire Protection fund and $969.55 for the Street Lighting Fund was approved for payment. Carried, 4 ayes, 0 noes, 1 absent.**

Departmental Reports were as follows:

Councilman Morrell stated that Sandy Fliss was working on the next senior trip and that the last trip went very well. Councilman Morrell update the board on the search for veterinarian willing to do the rabies clinic.

Councilman Quinn had nothing to report but noted that the pool looked good.

Councilman Hochadel reported that the concerts in the park have been well attended with about 200 people a night. Councilman Hochadel noted that there will be another concert added on August 27th and it would be Roger Hill.

Supervisor Gambino reported that there had been a pre-construction meeting held for the planned building renovations and noted that construction is set to start on August 19th. Next Supervisor Gambino reported that the cameras installation had started and would be complete the following week. Lastly Supervisor Gambino undated the board on the Summer Recreation activities including field trips, program attendance, rescheduling of the trip to the Bison’s game and the end of year picnic. She noted that she received many positive compliments on the program this year.

Superintendent Hopkins reported that the surplus scrap metal had been taken care of. Superintendent Hopkins informed the board that the Erie County Highway Snow Plowing contract had been agreed on with an increase of 3.5% for the next two years and the 3% for the third year. Lastly Superintendent Hopkins reported that he had been using a robotic pool vacuum on a trial basis and was having fantastic results. He noted what a time and labor saver it was as well as how well it cleaned the pool. Superintendent Hopkins requested permission to purchase said vacuum at a cost of $2800.00. **Therefor on a motion by Hochadel, seconded by Morrell, the Board approved the purchase of the pool vacuum. Carried, 4 ayes, 0 noes, 1 absent.**

Supervisor Gambino stated that the next item on the agenda was for approval of new positons for the recreation program due to the current Recreation Director returning to college. **Therefore the following resolution, to be known as Resolution #29 of 2019, was moved for adoption on a motion by Hochadel, seconded by Morrell:**

**Resolution #29 – 2019**

**APPROVAL OF POSITIONS**

**WHEREAS,** the Sardinia Town Board has received recommendations from the Recreation Manager Chris Warner to fill the following position with the individual listed at the pay rate posted:

**POSITION NAME RATE OF PAY per hour**

Recreation Director Jami Smith $16.00 an hour

**DULY ADOPTED, this 8th day of August, 2019 by the following vote: Emmick absent, Hochadel, aye, Morrell, aye, Quinn, aye, Gambino, aye. So resolved, 4 ayes, 0 noes, 1 absent**

Supervisor Gambino stated that the next item was not on the agenda but was also for approval of new positons. This one was for the pool program due to kids returning to college. **Therefore the following resolution, to be known as Resolution #30 of 2019, was moved for adoption on a motion by Hochadel, seconded by Morrell:**

**Resolution #30 – 2019**

**APPROVAL OF POSITIONS**

**WHEREAS,** the Sardinia Town Board has received recommendations from the Recreation Manager Chris Warner to fill the following position with the individual listed at the pay rate posted:

**POSITION NAME RATE OF PAY per hour**

Life Guard Madison Phelps $15.25 an hour

**DULY ADOPTED, this 8th day of August, 2019 by the following vote: Emmick absent, Hochadel, aye, Morrell, aye, Quinn, aye, Gambino, aye. So resolved, 4 ayes, 0 noes, 1 absent**

Supervisor Gambino stated that the next resolution on the agenda was for approval of the re-appointment of Thelma Hornberger as Town Assessor. Supervisor Gambino noted that this was for a six year term. **Therefore the following resolution, to be known as Resolution #31 of 2019, was moved for adoption on a motion by Gambino, seconded by Hochadel:**

**Resolution #31 – 2019**

**APPROVAL OF APPOINTMENT OF TAX ASSESSOR**

**WHEREAS,** the term of appointment of Tax Assessor is made for six years, and

**WHEREAS,** the Town of Sardinia Assessor, Thelma Hornberger, has previously been appointed to a six year term expiring on September 30, 2019, and

**NOW, THEREFORE, BE IT RESOLVED,** the Sardinia Town Board hereby re-appoints Thelma Hornberger as the Town of Sardinia Assessor, effective October 1, 2019, with a six-year term ending on September 30, 2025.

**DULY ADOPTED, this 8th day of August, 2019 by the following vote: Emmick absent, Hochadel, aye, Morrell, aye, Quinn, aye, Gambino, aye. So resolved, 4 ayes, 0 noes, 1 absent.**

Supervisor Gambino stated that the last resolution on the agenda was for approval of a new Use of Force Policy for the town constables as required by New York State. **Therefore the following resolution, to be known as Resolution #32 of 2019, was moved for adoption on a motion by Hochadel, seconded by Morrell:**

**Resolution #32 – 2019**

**APPROVAL OF USE OF FORCE POLICY**

1. **PURPOSE**

Law enforcement officers around the country and here in New York State are authorized to use reasonable and legitimate force in specific circumstances. Federal constitutional and state statutory standards dictate when and how much force can be used. This policy is founded in these standards, but is not intended to be an exhaustive recitation of state and/or federal legal framework covering use of force. The policy is designed to provide guidance to individual agencies as they develop their own use of force policies in accordance with Executive Law §840(4)(d)(3).

This policy is not intended to endorse or prohibit any particular tactic, technique, or method of employing force. Separate policy guidance and training should be provided for each of the available force instrumentalities made available to officers.

1. **POLICY**

The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness. Theamount of force that is used by the officers shall be the amount of force that is objectively reasonable under the circumstances for the officer involved to effect an arrest, prevent an escape or in defense of themselves or others. The standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Connor,* is used in this policy and is intended to provide officers with guidelines for the use of force, including deadly physical force.

As the Supreme Court has recognized, this reasonableness inquiry embodies “allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.”

This policy is written in recognition of the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires a careful balancing of all interests.

1. **DEFINITIONS**
2. **Objectively Reasonable –** An objective standard used to judge an officer’s actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time that force was used.
3. **Deadly Physical Force –** Physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.
4. **Physical Injury –** Impairment of physical condition or substantial pain.
5. **Serious Physical Injury –** Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function or any bodily organ.
6. **USE OF FORCE**
7. In general terms, force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of one’s self or another.
8. Under the 4th Amendment, a police officer may use only such force as is “objectively reasonable” under the circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene.
9. **DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE**
10. When used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the event.
11. Factors that may be used in determining the reasonableness of force include, but are not limited to:
12. The severity of the crime or circumstance;
13. The level of immediacy of threat or resistance posed by the suspect;
14. The potential for injury to citizens, officers and suspects;
15. The risk or attempt of the suspect to escape;
16. The knowledge, training and experience of the officer;
17. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects;
18. Other environmental conditions or exigent circumstances
19. **DUTY TO INTERVENE**
20. Any officer present and observing another officer using force that he/she reasonable believes to be clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm.
21. An officer who observes another officer use force that exceeds the degree of force as described in subdivision A of this section should promptly report these observations to a supervisor.
22. **USE OF DEADLY FORCE**
23. Deadly physical force may be used by an officer to protect themselves or another person from what the officer reasonably believes is an imminent threat of serious physical injury or death.
24. Deadly physical force may be used to stop a fleeing suspect where:
25. The officer has probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death; and
26. The officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or others.
27. Where feasible, some warning should be given prior to the use of deadly physical force.
28. **PROHIBITED USES OF FORCE**
29. Force shall not be used by an officer for the following reasons
30. To coerce a confession from a subject in custody;
31. To obtain blood, saliva, urine, or other bodily fluid or cells, from an individual for the purposes of scientific testing in lieu of a court order where required
32. Against persons who are handcuffed or restrained unless it is used to prevent injury, escape, or otherwise overcome active or passive resistance posed by the subject.
33. **REPORTING & REVIEWING THE USE OF FORCE**
34. Any injuries resulting from a use of force incident shall result in the appropriate and timely medical attention being provided to the injured party.
35. Members involved in use of force incidents as described below shall notify their supervisor as soon as practicable and shall complete a departmental use of force report
36. Use of force that results in a physical injury.
37. Use of force incidents that a reasonable person would believe is likely to cause injury.
38. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from complaint handcuffing.
39. Incidents where a conducted energy device (CED) was intentionally discharged or accidentally discharged after being displayed.
40. Incidents where a firearm was discharged at a subject.
41. A standardized use of force form should be used to document any reportable use of force incident.
42. **PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS**
43. Where practicable, a supervisor should respond to the scene to begin the preliminary force investigation.
44. A supervisor that is made aware of a force incident shall ensure the completion of a use of force report by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.
45. Photographs should be taken which sufficiently document any injuries or lack thereof to officers or suspects.
46. The [applicable person, unit, or bureau] will receive the supervisor’s report and conduct an investigation
47. Consistent with agency disciplinary protocols and any applicable collective bargaining agreements, agency policy should establish standards for addressing the failure to adhere to use of force guidelines.
48. **TRAINING**
49. All officers should receive training and demonstrate their understanding on the proper application of force.
50. Training topics will include use of force, conflict prevention, conflict resolution and negotiation, and de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.
51. This policy is not intended to be a substitute for proper training in the use of force. Comprehensive training is the key to the real-world application of the concepts discussed within this policy.

**DULY ADOPTED, this 8th day of August, 2019 by the following vote: Emmick absent, Hochadel, aye, Morrell, aye, Quinn, aye, Gambino, aye. So resolved, 4 ayes, 0 noes, 1 absent.**

Supervisor Gambino stated that once again the representative from the Genesee Rd. solar project was scheduled to speak but that no one from the company had shown up. Supervisor Gambino then asked Lia Oprea to give an update on the Southtowns Solar project. Lia stated that there will be an informational meeting at the Olmsted Camp August 21st at 6:30 pm.

**There being no further business to come before the Board, on a motion by Quinn, seconded by Hochadel, the meeting was adjourned at 6:41 PM. Carried, 4 ayes, 0 noes, 1 absent.**

Respectfully Submitted,

Town Clerk