

11-12-2009 – 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
Approx. 40 guests

The Sardinia Town Board held its regularly scheduled Board meeting for November on November 12, 2009 at the Sardinia Town Hall/Community Center. Supervisor Balus called the meeting to order at 7:30 PM, with a Moment of Silence in honor of those who serve our Country and those who have fallen, and the Pledge to the Flag.

The Town Clerk has submitted the minutes of the October 7, 2009 Work Session on the 2010 Town Budget; the October 14, 2009 Public Hearing on the 2010-2011 CDGB Funds; the October 14, 2009 Regular Town Board Meeting; the October 19, 2009 Special Town Board Meeting; and the October 29, 2009 Special Town Board Meeting. These minutes were approved as submitted on a motion by Phelps, seconded by Uhteg, and carried, 5 ayes, 0 noes.

The Supervisor's report for September included:

- Receipt of a Thank You card from Dale Shaw and Family
- Receipt of a letter from Tom Dearing of the Dept. of Development and Planning confirming the Extension of the CDBG sidewalk project in the amount of \$89,800
- Followed up with Peter Gorton of Pan American regarding status of water testing of selected wells as per the program
- Provided Marie Pieczynski, Planner for CDBG with verification that the town would match 5% of the awarded grant should we submit a successful bid
- A very special thank you and acknowledgement to Shelia Vrenna who organized the Gas Well Seminar- many people gained tremendous knowledge and insight into the pros, cons and Pitfalls of gas wells

Matters for Discussion included:

- The Fence at Manion Park. Councilman Montgomery stated that Collins Correctional Facility inmates have been out and the brush has been removed from the fence at Manion Park and behind the Town Hall/Community Center. Mr. Montgomery stated that approximately 310' of fence should be repaired or replaced, and he has specs drawn up. He will now ask for quotes.
- The Supervisor stated she received the Springville Control Center Service Agreement on 9-7-09, and has been told to hold, but Councilman Uhteg has received word that the Control Center wants to wrap up the agreement. She asked Attorney DiFilippo to comment on the agreement, and he stated he had met with the Advisory Board about 15 years ago and nothing was ever resolved. Mr. DiFilippo stated that this agreement is based on population rather than assessed value, is automatically renewed unless disputed, and if there is a dispute, the Village of Springville has the final say. Councilman Uhteg stated that under this agreement, Sardinia will pay 23.5%, or approximately \$22,000.00, and Springville and Concord will pay the remainder. The Supervisor asked Mr. Uhteg and Mr. Wiedemann to attend the next Advisory Board meeting and report at the next meeting.

Councilman Phelps reported that at the last Youth Committee meeting, they met with Bill Arlow, who explained the Parks Master Plan process. She stated that the Tiny Tots Program has asked permission to purchase two 6 seat strollers, at a cost of \$895.95 each, in the event that they take the three year olds for a walk. Councilman Phelps stated she feels that it is not really a necessity considering the program doesn't operate during the nice weather months, and at a cost of nearly \$2,000.00, it is too much. The rest of the Board agreed, and the request will be denied. Ms. Phelps stated that the next Youth Committee meeting will be on December 2nd at 7:00 PM, and urged anyone interested to attend.

Councilman Uhteg reported that the Historical society has contacted Collins Correctional to have inmates work on the inside off the Meeting House during the winter months. They will be scraping paint, sanding, etc. Mr. Uhteg stated that over 100 people attended the gas well seminar and it was very informative. Schuyler County would like to be reimbursed for the mileage traveled by Brett Chedzoy, expert on Western NY gas drilling. Mr. Uhteg stated it should be around \$110.00 and felt it was a minor expense for the service provided. Councilman Uhteg stated he has contacted those who quoted on the redirection of the overhead pipes in the vault, and they will send updated quotes.

Concerning the bathhouse renovation, Mr. Uhteg stated that he had hoped architect Heather Nemec would have the drawings completed by tonight, but has not, and will be done soon. He stated that she has given him a ball park figure of \$56,000.00. for a cost of the renovation. Mr. Uhteg stated he would like to get bid specs sent out as soon as she has them to the Town. This was discussed, and it was decided to have an emergency meeting, if needed, then advertise for bids, and open at the following meeting. Attorney DiFilippo stated that would be fine as long as the advertisement stated that the Town reserves the right to reject any or all bids.

Councilman Hannon stated that the Senior Flu Clinic was held on October 30th went well. She stated that 194 people received vaccinations for the seasonal flu, and about half were Town residents. The Town will have to cover the cost of 13 flu vaccines and 1 pneumonia vaccine for uninsured residents, at a cost of \$435.00. She thanked the Clerk for helping out, since there was a glitch when the VNA decided to cancel all clinics in Western NY except for the Town's, and had Sardinia's clinic on their website. Ms. Hannon stated that Waste Management provided food, and the event was very successful. She also reported that the rabies clinic went very well, with 48 cats and dogs being vaccinated. She stated that the cost to the Town was \$96.00 for rabies vaccine, and \$50.00 for a vet tech. Ms. Hannon stated that she has sent thank you letters to Dr. Joe Tashjian and Dr. Nancy Pugh for volunteering their time. She stated that next year we will advertise more and earlier. Councilman Hannon stated she would like to remove the Employee Handbook project from the docket and work on it next year; she stated that TVGA has written the grant for the CDBG funding and it has been submitted; and there is another Defensive Driving Course scheduled for April 6th and April 8th, 2010. Ms. Hannon stated that the Senior Citizens Thanksgiving Dinner will be held at the hearth on November 19, 2009, and Clint Salmon has asked that \$550.00, the cost of the dinner, be approved. A motion was made by Phelps, seconded by Hannon, to approve the \$550.00 for the Senior Thanksgiving dinner. Carried, 5 ayes, 0 noes. Councilman Hannon also stated that it has come to her attention that the elevator needs to be inspected not only by the elevator company, but also by a State inspector, and she will take care of that. She also stated that the Food for All Program will again be here on November 24th; and she has scheduled the HEAP program to be here on December 7th and January 11th. Ms. Hannon stated that as Supervisor-elect, she would like approval of the Board to advertise the positions that will be open for appointment on January 1st. No one had any objection.

Councilman Hannon then stated that, concerning the lawsuit against the ZBA/Gernatt, she feels this Board has wasted a great amount of taxpayers' dollars on the suit and stated there is a voter's mandate in place. Councilman Hannon then made a motion, which was seconded by Montgomery, to discontinue the lawsuit against the Zoning Board of Appeals. Discussion was then held on the matter. Councilman Uhteg stated that he doesn't feel that anything has changed. Supervisor Balus stated she feels the cost to the Town came from both sides, and that the case should be allowed to be heard, since the majority of the money has already been spent. Councilman Hannon stated that the ZBA did what they had to do. Councilman Uhteg stated they didn't do it right. Supervisor Balus stated if the Town loses in the Appellate Division, then it is over. She asked the Attorney for the Town to comment on the matter. Mr. DiFilippo stated he has no comment on the litigation, and does not feel it is proper to discuss the merits of litigation in open session. He stated that everything has been filed on behalf of the Town, and that the Appellate Division has scheduled the case for argument during the week of February 22, 2010. He stated once again that he doesn't feel it should be debated in public. The motion had been made and seconded to drop the suit, and the Supervisor then called for a vote, which was as follows: Hannon, aye, Montgomery, aye, Phelps, no, Uhteg, no, Balus, no. Motion failed, 3 noes, 2 ayes.

Councilman Montgomery was asked to report on the House Numbering Code. The Supervisor reminded that he was to get together with Firefighter Laurie Smith. Councilman Uhteg stated that he has gotten a price of \$8.00 for the signs and an additional \$7.00 for the posts from someone local. Councilman Montgomery stated he has spoken to the Cattaraugus County sign shop, who can do them for \$10.40 per sign, including the post. The question of who would put them up was raised. It was hoped that people would put them up on their own, but if not, it was not known who would. It was decided that another ad should be placed to let people know that they can get the signs free of charge. Firefighter Laurie Smith stated that she has done a lot of research on the signs, has been working on the project for four years, and would like to see it come to fruition. Mr. Hannon stated that the Fire Company was originally going to put up the signs but because of the liability, decided against it. Councilman Hannon asked why the Fire Company doesn't do it now that the Town has taken over the liability. Ms. Smith stated that she feels the Fire Company has enough to do. Ms. Hannon stated maybe she should go back to the Fire Company to discuss a distribution system. Supervisor Balus suggested that a committee or about 7 or 8 people be put together to figure out how to handle the problem.

Attorney for the Town Anthony DiFilippo, III updated the Board on Legal matters affecting the Town. He reported that he has prepared the stipulations for the settlement of the lawsuits brought by the Concerned Citizens against Waste Management and the Town. He stated they have been executed by the attorney for the Concerned Citizens, and he is awaiting the signed forms from the attorney for Waste Management. Mr. DiFilippo stated he will file them as soon as they have all been received. He stated he has already reported on the status of the Gernatt litigation, and other than that, everything has been routine. He stated there are other matters coming up on the agenda, and he will handle them as they come up.

The Town Clerk's monthly report for the month of October 2009 was submitted, as well as the Code Enforcement Officer's report for October 2009.

The Highway Superintendent was not on hand, but the Supervisor suggested that perhaps at next month's meeting, Highway Superintendent-Elect Don Hopkins could attend and discuss equipment replacement.

After review by Board members, on a motion by Phelps, seconded by Montgomery, General Fund Warrant #11 including vouchers #531 through #582 and totaling \$29,802.39; and Highway Fund Abstract #11, including vouchers #151 through #167 and totaling \$41,982.12 were approved for payment. Carried, 5 ayes, 0 noes.

Under Privilege of the Floor:

William Barrier of Sardinia spoke at length against campaign tactics, Waste Management, and the Gernatt mine. He again stated that his well had gone dry because of the gravel mine.

Jim Farthing of Phillips Rd. thanked Councilman Hannon for organizing the well run flu clinic, and stated he had learned much about programs available for Senior Citizens.

Disaster Coordinator Ron Kenyon spoke on the H1N1 virus vaccination program and how it would be handled in Erie County. He stated that Erie County has decided to have the vaccine sent to physicians rather than have county run

clinics. He explained that the County clinics will be at the School District level. He stated that the Community Center is being requested as a pod site, if needed, and the Fire Hall will be a back up pod site, and the only cots will be utilities. A document allowing this plan needs to be signed, and if it becomes necessary to use them, an emergency meeting could be called for approval to execute the agreement.

Peter Sorgi, Attorney for Gernatt Asphalt, stated that, in response to Mr. Barrier's earlier remarks, the DEC investigated their water problem and determined it was not caused by Gernatt, and Mr. Barrier had not even allowed the company representatives on their property.

Supervisor Balus stated that the Board has been through a lengthy process working on the 2010 Budget, from Tentative Budget, to Work Session on the Budget, to Preliminary Budget, to a Public hearing, and it is now time to act on the 2010 Preliminary Budget. She then called for a resolution to adopt. Resolution #28 of 2009 was then introduced by Phelps, seconded by Uhteg, as follows:

RESOLUTION # 28 - 2009

RESOLVED, the Sardinia Town Board hereby adopts the 2010 Preliminary Budget as the final 2010 Town of Sardinia Budget.

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

Supervisor Balus stated that at the last meeting, an amendment to the Host Municipality Agreement with Waste Management was distributed but not acted upon, so that the public could read and comment on it. She then outlined some of the provisions, including protections by insurance, more property protections, and an environmental fund. She then asked for a resolution to approve the amendments. The following resolution, to be known as Resolution #29 of 2009, was then introduced by Phelps, seconded by Uhteg:

RESOLUTION #29 – 2009

RESOLVED, the Sardinia Town Board hereby approves the Amendment to the Waste Management Host Municipality Agreement.

Discussion was then held. Councilman Hannon stated that she feels that the property protection should be provided to resident within a radius of the landfill, rather than along roads, that the Subrogation Clause should be moved, and a Hold Harmless Clause, as well as provisions for cost of living increases, should be included. Ms. Hannon stated she felt that this amendment was agreed to by Waste Management in exchange for the Special Use Permit allowing the Borrow area. Supervisor Balus stated that she and Councilman Uhteg worked hard to get the best agreement they could. She stated that the timing was a coincidence, and she has a clear conscience. She stated that she felt this agreement was needed because the original was lacking in many areas. The Attorney for the Town stated he has reviewed and offered his comments at the last meeting. He stated that negotiations can always be continued and he has no legal objection to this amendment. The Supervisor stated that billions of dollars in electricity are generated in the Co-Gen plant, and it is because it was negotiated by an incompetent, inept, inexperienced group of individuals who couldn't see the future and sold the Town short. She stated it is not a great agreement but it is better than the original. Councilman Phelps stated she was on that Board and is not sorry for the agreement that they got 5 years ago, that they got the best they felt they could get at the time. She stated that the \$3 million budget is totally paid for, and she is not sorry about the agreement they reached. A vote was then taken on the resolution. Upon roll call vote, Hannon, aye, Montgomery, no, Phelps, aye, Uhteg, aye, Balus, aye. So Resolved, 3 ayes, 0 noes.

Supervisor Balus stated that at the last meeting, the Board had met in Executive Session with Assessor Thelma Hornberger and a gentleman from Arrow Appraisal Services concerning potential litigation concerning a property or properties within the Town of Sardinia, and is now looking for a resolution to authorize the Supervisor to sign a letter of engagement to retain the services of that appraisal company. The following resolution, to be known as Resolution #30 of 2009, was then introduced by Phelps, seconded by Uhteg, as follows:

RESOLUTION #30 – 2009

RESOLVED, the Sardinia Town Board hereby authorizes Supervisor Kathleen Balus to sign a Letter of Engagement for Arrow Appraisal Services, in the amount of \$5,000.00, for consulting services concerning a property or properties within the Town of Sardinia, as requested by Town Assessor Thelma Hornberger.

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

Announcements were as follows:

- The next Regular Town Board Meeting will be held December 9, 2009 at 7:30 PM.
- Planning Board meetings will be held on November 18th and December 2nd, 2009 at 7:30 PM.
- The Senior Citizens Thanksgiving Dinner will be held on November 19th at the Hearth Restaurant, at 12:30 PM

William Arlow reminded that the Sardinia Parks.net website is now up and available.

Tom Lewis of Waste Management stated he has filed his quarterly report and will share it with the public at 7 PM before the December meeting.

There being no further business to come before the Board, on a motion by Phelps, seconded by Uhteg, the meeting was adjourned at 8:50 PM. Carried, 5 ayes, 0 noes.

Respectfully Submitted,