

May 9, 2012

**MINUTES**

**REGULAR MEETING – EDEN TOWN BOARD  
2795 EAST CHURCH STREET  
EDEN, NEW YORK  
MAY 9, 2012  
7:30 P.M.**

**TOWN BOARD MEMBERS PRESENT:**

GLENN R. NELLIS	-	SUPERVISOR
MARY LOU PEW	-	COUNCILWOMAN ( <i>Absent</i> )
EDWARD KRYCIA, JR	-	COUNCILMAN
RICHARD S. VENTRY	-	COUNCILMAN
FRAN MCLAUGHLIN	-	COUNCILMAN

**DEPARTMENT HEADS PRESENT:**

Ronald C. Maggs	-	Superintendent of Highways
Michael J. Felschow	-	Chief of Police
Jack Rigley	-	Eden Fire Chief
Rick Kirst	-	East Eden Fire Department
Susan Brass	-	Recreation Director
Ray Zabron	-	Dog Control Officer

**OTHERS PRESENT:**

William Trask	-	Town Attorney
Mary Jo Hultquist	-	Town Clerk
Lisa Greiner	-	Administrative Assistant

**Call to Order:**

Supervisor Nellis called the Regular Meeting of the Eden Town Board to order at 7:30 P.M.

**Pledge of Allegiance:**

Supervisor Nellis led the assembly in the Pledge of Allegiance to the flag followed by a moment of silence.

**Approval of Minutes:**

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of April 11, 2012; there were none.

**MOTION** was made by Councilman Ventry to approve the Town Board Minutes of April 11, 2012 as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Petitions:**

There were none.

**Budget Transfers/Amendments:**

Supervisor Nellis read the following Budget Transfers/Amendments:

<b>From Account</b>	<b>To Account</b>	<b>Reason for Amendment</b>	<b>Amount</b>
A1990.4 Contingent Fund	A1410.4 Town Clerk – Cont.	Tax collection DOS to windows conversion	\$2,650.00
A6772.4 Programs for Aging	A7311.4 Youth Contractual	Redistribution of Stipends	\$1,500.00
A3021 Court Facilities	A1620.4 Town Hall Contractual	Apply grant money to cost of air conditioning units	\$14,410.00
A1990.4 Contingent Fund	A1320.4 Auditor – Contractual	Addition of Federal Audit Costs	\$460.00
A2089 Income – Bicentennial	A7550.401 Celebrations – Bicentennial	Income rec'd to offset current and future bicentennial expenses for 2012	\$20,000.00
A8810.2 Cemeteries – equipment	A8810.4 Cemeteries – Contractual	Correct classification per auditors	\$6,000.00
SW2140 Wepax Rd. Revenue	SW8320.401 Wepax Rd. Contractual	Set up Wepax Road Budget	\$2,000.00
SW2140 Wepax Rd. Revenue	SW8320.402 Wepax Water – Farnham Expense	Set up Wepax Road Budget	\$1,400.00
SF9710.7 Fire Bond Interest	SF9730.7 Fire BAN Interest	Reclassify BOND interest which is actually BAN interest	\$16,000.00
DO878.2 Highway Reserve	DO5130.2 Machinery Equipment	Purchase Equipment per permissive referendum	\$32,000.00

**MOTION** was made by Councilman McLaughlin to approve the Budget Transfers/Amendments as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Audit Bills:**

Supervisor Nellis asked if there were any changes or additions to the “Audit of Bills” which are on file in the Town Clerk’s office. There were none.

<b>DESCRIPTION</b>	<b>VOUCHER NUMBERS</b>	<b>AMOUNT</b>
General Fund	250-333	\$111,460.10
Highway Dept. Fund	109-148	\$43,897.47
Fire Dept. Fund	73-104	\$48,388.69
Recreation Dept. Fund	27-38	\$1,568.22
Refuse and Garbage Fund	6-7	\$37,965.54
Street Lights Fund	9-11	\$4,763.61
Water Fund	13-15	\$5,630.86
Trust & Agency Fund	--	--
Capital Fund		
H3410.2	3-4	\$397.60
H8302.401	12-13	\$18,058.00
Community Development	--	--

**MOTION** was made by Councilwoman Krycia to approve the Audit of Bills as presented; seconded by Councilman McLaughlin; All “Ayes”? Opposed? – None; Abstain? – None; Motion carried.

**Departmental Reports:**

Department reports for the month of April 2012 were presented by Jack Rigley, Eden Fire Chief; Rick Kirst for Andrew Breier, East Eden Fire Chief; Michael Felschow, Eden Police Chief; Ray Zabron, Dog Control Officer; Ronald Maggs, Superintendent of Highways; William Trask, Town Attorney; Mary Jo Hultquist, Town Clerk; Supervisor Nellis for Scott Henry, Zoning Code Enforcement Officer; and Susan Brass, Recreation Director. All reports are on file in the Town Clerk’s office.

Jack Rigley, Eden Fire Chief requested permission to send 6 men to training at The New York State Chiefs Fire Convention in Verona, New York on June 14 and 15, 2012 at a total cost of \$575.86.

**MOTION** was made by Councilman Ventry to approve the request for training at the New York State Fire Chiefs Fire Convention in Verona, New York on June 14 and 15, 2012 at a total cost of \$575.86; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**New and Unfinished Business:**

**1. SASI – Presentation, recognition and appreciation**

Supervisor Nellis introduced the following:

The Hon. Frederick Marshall, President Foundation Board, Tony Annunziato, Executive Director and Mark Balus, President Corporate Board from the SASI organization.

Mr. Marshall read the following:

**A JOINT RESOLUTION OF THE CORPORATE AND FOUNDATION BOARDS OF DIRECTORS OF SUBURBAN ADULT SERVICES, INC.**

The following resolution was unanimously passed by the Board of Directors of Suburban Adult Services, Inc. and the Board of Directors of the Suburban Adult Services Foundation:

**WHEREAS**, over the last five years, SASi has sought the cooperation of the Town of Eden in locating facilities and providing services in the Town, and

**WHEREAS**, the Town of Eden warmly welcomed and approved the location of a SASi group home on Paxon Road, and

**WHEREAS**, the Town of Eden gave its support for block grant funding for a new roof and other needed repairs for the Kazoo Factory, and

**WHEREAS**, the Town of Eden provided support for block grant funding for construction of the new Day Habilitation Center, and

**WHEREAS**, The Town of Eden through the auspices of the Eden Community Fund provided funding and other support for the Kazoo museum, and

**WHEREAS**, the Town of Eden supported and participated in the 100<sup>th</sup> Anniversary Celebration of the Original Kazoo Company in 2007, and

**WHEREAS**, the Boards of Directors of SASi and the SASi Foundation, on behalf of themselves, the administration, the employees and all the individuals of SASi, wish to

express our collective appreciation to the Town Board and the citizens of the Town of Eden for all that they have done to promote and sustain the presence of SASi in the Town.

**NOW, THEREFORE, BE IT DULY RESOLVED**, that the Board of Directors of SASi and the Board of Directors of the SASi Foundation heartily thank Supervisor Glenn R. Nellis, the past and current town board members and all the good citizens of the Town of Eden for everything that they have done to support and assist SASi's mission to provide services to individuals with developmental disabilities.

**2. Revisions in Warranty on new fire truck**

Supervisor Nellis read the following resolution:

**Warranty Revision on new Sutphen Fire Pumper**

**WHEREAS**, on March 28, 2012 the Eden Town Board, by resolution, agreed to purchase a three-year extended warranty for the new Sutphen Fire Pumper at an additional cost of \$6,967.00; and

**WHEREAS**, upon further discussion and research of the various warranties offered, it was determined that the companies providing the major components for the new pumper already include a five-year warranty period, negating any need for a multi-year warranty from Sutphen;

**THEREFORE**, be it resolved that the Eden Town Board rescind their March 28, 2012 decision to purchase the three-year extended warranty from Stuphen at a cost of \$6,967.00, making the final total cost of the new Fire Pumper \$441,345.46.

**MOTION** was made by Councilman Ventry to approve the resolution as presented; seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis read the following resolution:

**RESOLUTION AUTHORIZING SUPERVISOR GLENN R. NELLIS TO EXPEND FUNDS FROM THE FIRE DISTRICT CAPITAL (EQUIPMENT) RESERVE FUND OF THE TOWN OF EDEN, SUBJECT TO PERMISSIVE REFERENDUM**

The Town Board of the Town of Eden, duly convened in regular session, does hereby resolve pursuant to the provisions of Section 6-c of the General Municipal Law of the State of New York that the Town Supervisor of the Town of Eden be and is hereby authorized and directed to transfer from the Fire District Capital (Equipment) Reserve Fund of the Town of Eden to the Fire Department Equipment Purchase Line, Account Number SF3410.2, a sum not to exceed \$441,500.00 from said Reserve Fund to purchase one new Sutphen Monarch Custom Fire Pumper for the Eden Fire Department.

This resolution shall be subject to a permissive referendum, as permitted by law.

**MOTION** was made by Councilman McLaughlin to approve the resolution as presented; seconded by Councilman Ventry; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

**3. Portable Sanitation Services**

Supervisor Nellis read correspondence from Susan Brass, Recreation Director regarding quotes received for the Portable Sanitation Services for the 2012 season. The Eden Recreation Advisory Board received two quotes and is requesting the Town Board award Ball Toilet & Septic Services, which was the low quote at \$2,193.87

**MOTION** was made by Councilman Ventry to award the bid to Ball Toilet & Septic Services at the amount of \$2,193.87; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

**4. Update on Water Projects**

Supervisor Nellis stated that the top priority is to expedite the paperwork with the Insurance company and the bonding company consultant has recommended a replacement contractor to complete the project for Water District No. 5

**5. Lease Agreement with Dog Kennel**

**DOG SHELTER LEASE AGREEMENT**

This lease agreement made and entered this 9<sup>th</sup> day of May, 2012, by and between the following named herein referred to as:

The Eden Veterinary Clinic 8217 N. Main Street, Eden, New York 14057 (“EVC) or “lessor”) and

The Town of Eden, 2795 East Church Street, Eden, New York 14057 (“Town of Eden” or “lessee”)

Whereas, the lessor owns and operates the Eden Veterinary Clinic and the lessee desires to lease the shelter and pound facilities of EVC pursuant to Section 114 of the Agriculture and Markets Law of the State of New York.

THE PARTIES AGREE AS FOLLOWS:

1. Lessor hereby leases to lessee, through the Town Dog Control Officer (DCO) or his assistant, non-exclusive use of the dog kennel facility at the Eden Veterinary Clinic for a current annual fee of \$3,500.00, for the 2012 calendar year for purposes of sheltering and caring for dogs taken into custody by the Town DCO.
2. All dogs placed in the shelter by the town will be provided food, water and basic care by lessor for the redemption period as hereinafter provided. Furthermore, lessor agrees to provide all maintenance and repair to the shelter facilities as may be necessary.
3. When required, the DCO may authorize special additional services for dogs that require emergency surgery and/or medical treatment prior to owner notification. It is understood that the cost of such services will be paid by the owner or licensee of the dog.
4. A dog with expired rabies must be updated by the Eden veterinary clinic doctors before that dog can leave the kennel. The fee for the rabies inoculation will be incurred by the owner.
5. Humane euthanasia will be provided to dogs deemed not adoptable, or which have severe injuries or health conditions that would cause undue suffering or pain. Such euthanasia and group burial shall be arranged by the DCO and Town shall be responsible for the cost incurred for the same.
6. The Lessor agrees to hold harmless and indemnify the Town of Eden and any other facility owner, and their respective agents, officers and employees, from any loss, claims, suits claiming damage to persons or property, defense and other legal costs and expenses of any kind, arising out of, resulting from, caused by, or in any way related to the conditions at or operations aspects of the shelter space leased to the Town. Lessor shall maintain, at all times during the lease term and for a period of at least three (3) years following termination of this lease agreement one or more policies of liability insurance containing such coverages as may be required by the Town, naming Town as an additional insured.

May 9, 2012

7. This agreement shall commence on the 1<sup>st</sup> day of January 2012 and shall continue through the 31<sup>st</sup> day of December 2012 and renewed in one-year extensions at per diem rate.
8. This agreement may be terminated by either party upon thirty (30) days written notice, or sooner by the Town, for good cause shown. In the event of such termination, the annual fee payable hereunder shall be prorated and appropriate adjustments in payment shall be promptly made.

**MOTION** was made by Councilman Krycia to approve the Lease Agreement between the Town of Eden and the Eden Veterinary Clinic and to authorize Glenn R. Nellis, Supervisor to sign the agreement; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**6. Resolution on Post-Bond Issuance Compliance Procedures**

Supervisor Nellis read the following resolution:

**RESOLUTION DATED May 9, 2012 OF THE  
TOWN BOARD OF THE  
TOWN OF EDEN  
ERIE COUNTY, NEW YORK  
(THE “TOWN”)**

WHEREAS, the Internal Revenue Service has issued new regulations requiring issuers of tax-exempt obligations to certify on Form 8038-G that they actively monitor compliance with federal tax rules following the issuance of such obligations; and

WHEREAS, the Town is an occasional issuer of tax-exempt obligations and thus is subject to the aforementioned compliance requirements which are critical for the preservation of preferential tax status of those obligations; and

WHEREAS, it is therefore in the best interest of the Town to adopt formal written procedures to ensure such compliance and to designate an official responsible for ensuring that such procedures are followed;

NOW THEREFORE, BE IT RESOLVED, that Town hereby adopts the interim post-issuance compliance procedures attached hereto as “Schedule A” and resolves to be governed thereby; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately upon its adoption.

**MOTION** was made by Supervisor Nellis to adopt the resolution as presented; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis read the following:

**Schedule A**

- a. Purpose: The purpose behind implementation of post-issuance compliance procedures is to ensure that the Town is compliant with federal tax law requirements related to its outstanding tax-exempt obligations for the life of the obligations.
- b. Compliance Officer Designation, Education and Training: The Town will designate a “Compliance Officer” who will be the primary official responsible for monitoring post-issuance compliance with federal tax laws. The Compliance Officer will attend training and educational seminars at least annually at the law firm of Hodgson Russ and will consult with bond counsel as needed to keep current on IRS regulations and developments relating to post-issuance compliance for its obligations. The Town’s designated Compliance Officer is Lisa Winter.
- c. Record Retention and Due Diligence Review: The Compliance Officer is responsible for thorough record retention of all material documents relevant to the issuance of the Town’s tax-exempt obligations including, but not limited to, the transcript of proceedings, closing binder, bond counsel opinion, tax certificate, IRS-required filings, records of investments and expenditures made with proceeds, documents pertaining to existing or potential private and public use of bond-financed property, etc. The Compliance Officer will conduct due diligence review of these documents both upon receipt and at regular intervals throughout the life of the obligation.
- d. Monitoring Compliance: Compliance Officer will monitor use of proceeds and arbitrage restrictions through implementation of accounting methods and consultation with bond counsel and a rebate consultant when necessary.
- e. Correcting Potential Non-Compliance: Upon discovery of potential or existing non-compliance with post-issuance tax laws, Compliance Officer will promptly take steps, including consultation with bond counsel, to correct such non-compliance.

**MOTION** was made by Supervisor Nellis to adopt “Schedule A” and appoint Lisa Winter as Compliance Officer; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**7. Resolution – Permissive Referendum for Fire District for pagers**

Supervisor Nellis read the following resolution:

RESOLUTION AUTHORIZING SUPERVISOR GLENN R. NELLIS TO EXPEND FUNDS FROM THE FIRE DISTRICT CAPITAL (EQUIPMENT) RESERVE FUND OF THE TOWN OF EDEN, SUBJECT TO PERMISSIVE REFERENDUM.

The Town Board of the Town of Eden, duly convened in regular session, does hereby resolve pursuant to the provisions of Section 6-c of the General Municipal Law of the State of New York that the Town Supervisor of the Town of Eden be and is hereby authorized and directed to appropriate a sum not to exceed \$44,235.00 from the Fire District Capital (Equipment) Reserve Fund of the Town of Eden for the purpose of purchasing 100 pagers (40 for East Eden Fire Department and 60 for Eden Fire Department) and 15 mobile radios (8 dual and 7 single) under State Contract Pricing.

This resolution shall be subject to a permissive referendum, as permitted by law.

May 9, 2012

**MOTION** was made by Councilman Ventry to approve the resolution as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**8. Liquor License Renewal for Newell Faulkner Post 880 – American Legion**

This notification has been received and filed.

**9. Police Contract**

**MOTION** was made by Councilman Krycia to approve the Police Contract, a 3-year Contract, retroactive to January 1, 2012 and through December 31, 2014; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Hearing of Visitors:**

There were none.

**Adjournment:**

**MOTION** was made by Councilman Ventry to adjourn the Regular Meeting of the Eden Town Board; seconded by Councilman Krycia; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 8:30 P.M.

**Executive Session:**

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 10:00 P.M.

Respectfully submitted by,

Mary Jo Hultquist  
Town Clerk