

January 9, 2008

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
JANUARY 9, 2008
7:30 P.M.**

TOWN BOARD MEMBERS PRESENT:

GLENN R. NELLIS	-	SUPERVISOR
MARY LOU PEW	-	COUNCILWOMAN (<i>Deputy Supervisor</i>)
EDWARD KRYCIA, JR	-	COUNCILMAN
VINCENT V. VACCO	-	COUNCILMAN
RICHARD S. VENTRY	-	COUNCILMAN

DEPARTMENT HEADS PRESENT:

Dana Braun	-	Town Engineer
Ronald C. Maggs	-	Superintendent of Highways
Patrick M. Howard	-	Chief of Police
Scott Hultquist	-	Eden Emergency Squad
Chris Colvin	-	Eden Fire Chief
Andrew Breier	-	East Eden Fire Chief
Susan Brass	-	Recreation Director

OTHERS PRESENT:

William Trask	-	Town Attorney
Mary Jo Hultquist	-	Town Clerk
Anna M. Knack	-	Administrative Assistant

Call to Order:

Supervisor Nellis called the Regular Meeting of the Eden Town Board to order at 7:40 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 December 12, 2007; there were none.

MOTION was made by Councilman Ventry to approve the Town Board Minutes of December 12, 2007 as presented; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of December 19, 2007; there were none.

MOTION was made by Councilman Ventry to approve the Town Board Minutes of December 19, 2007 as presented; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

There were none.

Budget Transfers:

There were none.

Budget Amendments:

There were none.

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.

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	1-14	\$10,647.20
Highway Dept. Fund	1-3	\$5,969.86
Fire Dept. Fund	1-2	\$1,546.95
Recreation Dept. Fund	--	--
Refuse and Garbage Fund	--	--
Street Lights Fund	1	\$1,041.90
Water Fund	--	--
Trust & Agency Fund	--	--
Capital Fund	--	--
Community Development	--	--

2007 PAYABLES

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	736-772	\$37,219.07
Highway Dept. Fund	369-380	\$23,514.67
Fire Dept. Fund	314-327	\$3,519.77
Recreation Dept. Fund	206-210	\$377.67
Refuse and Garbage Fund	--	--
Street Lights Fund	34-35	\$3,802.09
Water Fund	31-34	\$50,847.17
Trust & Agency Fund	--	--
Capital Fund	--	--
Community Development	--	--

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

Departmental Reports:

Department reports for the month of December 2007 and year-end were presented by Scott Hultquist, Eden Emergency Squad; Chris Colvin, Eden Fire Chief; Andrew Breier, East Eden Fire Chief; Patrick Howard, Eden Police Chief; Ray Zabron, Dog Control Officer; Ronald Maggs, Superintendent of Highways; Dana Braun, Town Engineer; William Trask, Town Attorney; Mary Jo Hultquist, Town Clerk; Supervisor Nellis for Scott Henry, Zoning Code Enforcement Officer; Susan Brass, Recreation Director; Councilwoman Pew for Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

Chris Colvin, Eden Fire Chief requested the Town Board remove from the active roster of the Eden Fire Department the names of Al Carias (4-year member), Tim O’Connor (8-year member) and David Skalski (8-year member).

MOTION was made by Councilwoman Pew to remove the names of Al Carias, Tim O’Connor and David Skalski from the active roster of the Eden Fire Department with

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thanks and appreciation for years served; seconded by Councilman Krycia; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Chris Colvin, Eden Fire Chief requested approval of the following officers for 2008:

Chris Colvin – Chief	Vicki Sickau – President
Richard Greeley – 1 st Asst. Chief	Kevin Condon – Vice President
David Rice – 2 nd Asst. Chief	Jack Gavin – Secretary
Jack Rigley – Captain	Tom Schreiner – Treasurer
Glenn Scott – 1 st Lieutenant	Andy Huber – Trustee
To be named – 2 nd Lieutenant	Martin Henry – Trustee
Clyde Colvin – Safety Officer	Joe Winiecki – Trustee
Daniel Howles – Safety Officer	
Ronald Salzman – Safety Officer	

MOTION was made by Councilwoman Pew to approve the officers of 2008 for the Eden Fire Department as presented; seconded by Councilman Vacco; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Chris Colvin, Eden Fire Chief requested permission to take fire equipment out of the fire district for mutual aid, repairs, training, funerals and parades at the discretion of the Chief or Officer in charge.

MOTION was made by Councilwoman Pew to grant permission to take fire equipment out of the fire district for mutual aid, repairs, training, funerals and parades at the discretion of the Chief or Officer in charge; seconded by Councilman Krycia; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Andrew Breier, East Eden Fire Chief requested permission to take fire equipment out of the fire district for mutual aid, repairs, training, funerals and parades at the discretion of the Chief or Officer in charge.

MOTION was made by Councilwoman Pew to grant permission to take fire equipment out of the fire district for mutual aid, repairs, training, funerals and parades at the discretion of the Chief or Officer in charge; seconded by Councilman Krycia; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Ron Maggs, Highway Superintendent requested the Town Board approve the “Agreement to Spend” with general repairs in the amount of \$294,000.00 for 48.72 miles of Town Highways, including sluices, culverts and bridges having a span of less than five feet and boardwalks or the renewal thereof.

The improvements of the following town highways; on E. Pleasant Avenue, starting at US Route 62 and ending at Dead End, a distance of .49 miles; Sonnybrook Drive, starting at E. Pleasant Avenue and ending at Hillbrook Drive, a distance of .1 miles; and Hillbrook Drive, starting at US Route 62 and ending at Sonnybrook Drive, a distance of .4 miles.

MOTION was made by Councilman Krycia to approve the “Amendment to Spend” as presented with a copy to be filed in the Town Clerk’s office; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

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

Supervisor Nellis closed the Regular Meeting at 8:00 p.m.

MOTION was made by Councilwoman Pew to open the Public Hearing to consider joint increase and improvement of facilities of the entire Eden Water District; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

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Supervisor Nellis opened the Public Hearing at 8:00 p.m.

8:00 p.m.
Public Hearing
To consider joint increase and improvement of facilities of the entire
Eden Water District

Supervisor Nellis explained the purpose of the public hearing is to give the residents an opportunity to speak.

The following persons spoke and asked questions regarding the joint increase and improvement of facilities of the entire Eden Water District:

Robert Heferle, 2370 March Road
Joseph Klug, 7700 Bley Road

All persons desiring to be heard, having been heard, Supervisor Nellis closed the Public Hearing.

MOTION was made by Councilman Vacco to close the public hearing; seconded by Councilman Ventry; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

MOTION was made by Councilman Vacco to open the Regular Meeting of the Eden Town Board; seconded by Councilman Ventry; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

Department Reports (continued):

Supervisor Nellis stated that Frank Manton, Chairman of the Eden Conservation Board filed his annual report, which was received and filed.

New and Unfinished Business:

1. Setting of Hearing for Proposed Community Residence at 3121 Paxon Road for People with Developmental Disabilities

Supervisor Nellis received correspondence from Thomas Becker, Executive Director of Suburban Adult Services, Inc. on December 26, 2007 regarding the proposed community residence at 3121 Paxon Road for people with development disabilities. The residence they are seeking to develop will become the home for four (4) adults from the New York State Cares Wait List. Under the 41.34 statute, the municipality has forty (40) days after the receipt of the letter to respond.

Supervisor Nellis suggested that the Town Board consider a Public Meeting to be held on the night of the Work Session of the Eden Town Board on January 23, 2008 for a question/answer session.

2. Reappointments – Advisory Committees/Boards

Supervisor Nellis received reappointments for the Agriculture Advisory Committee for David Zittel and Felice Krycia to a 2-year term.

MOTION was made by Supervisor Nellis to reappoint David Zittel and Felice Krycia to a 2-year term to the Agriculture Advisory Committee; seconded by Councilwoman Pew; "Ayes"; Nellis, Pew, Vacco, Ventry; Opposed? – None; Abstain? – Krycia; Motion carried.

3. Additional Reorganizational items for 2008

Supervisor Nellis recommended the following additional Reorganizational Items for 2008:

Approve Donald Hoelscher as a part-time Police Officer.

MOTION was made by Supervisor Nellis to appoint Donald Hoelscher as a part-time Police Officer; seconded by Councilwoman Pew; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

Approve the rate of pay for Jane Henry, part-time public safety dispatcher at \$11.21 per hour instead of \$9.19 per hour as previously stated.

MOTION was made by Councilwoman Pew to approve the rate of pay for Jane Henry, part-time public safety dispatcher at \$11.21 per hour; seconded by Councilman Krycia; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

To conform with Erie County Personnel, please change the title of our part-time police dispatchers to part-time public safety dispatchers.

MOTION was made by Supervisor Nellis to change the title of our part-time police dispatchers to part-time public safety dispatchers; seconded by Councilwoman Pew; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

To approve payment of three (3) vouchers for CRA Infrastructure in the amount of \$86,143.50 to be submitted to Erie County Department of Planning for payment from the \$90,000.00 Community Development Block Grant for waterline improvements.

MOTION was made by Supervisor Nellis to approve the payment of three (3) vouchers for CRA Infrastructure in the amount of \$86,143.50; seconded by Councilman Vacco; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

4. Authorization to proceed with borrowing – Shadagee Road Waterline Project

Supervisor Nellis read the following resolution:

**RESOLUTION AND ORDER
AFTER PUBLIC HEARING APPROVING
THE JOINT INCREASE AND IMPROVEMENT OF
FACILITIES OF THE TOWN OF EDEN CONSOLIDATED
WATER DISTRICT AND WATER DISTRICTS NO. 1, 2, 3, 3A AND 4**

WHEREAS, the Town Board of the Town of Eden (herein called "Town Board" and "Town", respectively), in the County of Erie, New York on behalf of the Town of Eden Consolidated Water District and Water Districts No. 1, 2, 3, 3A and 4 (collectively, the "Districts"), in the Town, has directed CRA Infrastructure & Engineering, Inc., a subsidiary of Conestoga-Rovers & Associates, a professional engineering firm licensed in New York, to prepare a map, plan and report for the water system improvements, along Route 62 and Shadagee Road, including but not limited to, the construction of a pump station, the installation of a 12-inch transmission main along Shadagee Road, and the installation of approximately 3,500 feet of 10-inch waterline and 1,000 feet of 12-inch waterline, the replacement of hydrants, service lateral reconnections, and appurtenances, and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, (the "Improvements"); and pursuant to the direction of the Town the Engineer has completed and filed with the Town Board such map, plan and report for said joint increase and improvement of facilities of the Districts and has estimated the total cost thereof to be a maximum amount of \$4,200,000; said cost to be financed by the issuance of serial bonds of the Town in the amount of \$4,200,000, offset by any federal, state, county and/or local funds; and

WHEREAS, the Town Board has given due consideration to the impact that the joint increase and improvement of the facilities of the Districts may have on the environment and on the basis of such consideration, the Town Board found that no substantial adverse environmental impact will be caused thereby; and

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WHEREAS, the Town Board and the Town have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, which has been filed in the office of the Town Clerk.

WHEREAS, the Town Board issued an Order at its December 12, 2007 meeting calling for a public hearing to be held at the Town Hall, Eden, New York, on January 9, 2008 at 8:00 o'clock P.M. (prevailing time) to consider said joint increase and improvement of facilities of the Districts and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing; and

WHEREAS, said notices of the public hearing were properly published and posted and the public hearing duly held at the time and place stated in the notices.

NOW THEREFORE BE IT RESOLVED AND DETERMINED BY THE TOWN BOARD OF THE TOWN OF EDEN, based on the information provided at the public hearing, as follows:

DETERMINED, that it is in the public interest to increase and improve the facilities of the Districts as hereinabove described and referred to at the estimated maximum cost of \$4,200,000; and it is hereby

DETERMINED, that the parcels and lots of the Districts shall be benefited by said joint increase and improvement of the facilities of the Districts; and it is hereby

DETERMINED, that all parcels and lots benefited by said joint increase and improvement of the facilities are included in the Districts; and it is hereby

ORDERED, that the facilities of the Districts shall be so increased and improved and that the Engineer shall prepare plans and specifications and make a careful estimate of the expense for said joint increase and improvement of the facilities, and with the assistance of the Town Attorney, prepare a proposed contract for the execution of the work, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible, and it is hereby

FURTHER ORDERED, that the expense of said joint increase and improvement of the facilities shall be financed by the issuance of serial bonds of the Town in an amount not to exceed \$4,200,000, said amount to be offset by any federal, state, county and/or local funds, and the costs of said joint increase and improvement of facilities shall be annually apportioned among the Districts by the Town Board, and the amounts so apportioned shall be assessed, levied and collected from the several lots and parcels of land within each such District for such purpose in the same manner and at the same time as other Town charges, except as provided by law, and it is hereby

FURTHER ORDERED, that within ten (10) days after adoption of this Resolution and Order, the Town Clerk shall record with the Clerk of the County of Erie a copy of this Resolution and Order, certified by said Town Clerk.

MOTION was made by Councilman Vacco to the resolution as presented; seconded by Councilman Krycia; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

Councilwoman Pew read the following resolution:

WHEREAS, the Town Board of the Town of Eden, Erie County, New York (the "Town"), has determined to proceed with the Joint Increase and Improvement

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of Facilities of the Town of Eden Consolidated Water District and Water Districts No. 1, 2, 3, 3A and 4 (the 'Improvements Project'); and

WHEREAS, the Town Board desires to undertake the reconstruction of and construction of the Improvement Project, along Route 62 and Shadagee Road, including but not limited to, the construction of a pump station, the installation of a 12-inch transmission main along Shadagee Road, and the installation of approximately 3,500 feet of 10-inch waterline and 1,000 feet of 12-inch waterline, the replacement of hydrants, service lateral reconnections, and appurtenances, and all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, (the 'Improvements').

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of the Improvements.

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The specific purpose (hereinafter referred to as 'purpose') to be financed pursuant to this resolution is the joint increase and improvement of facilities of the Town of Eden Consolidated Water District and Water Districts No. 1, 2, 3, 3A and 4 (the 'Districts') in the Town of Eden. The maximum cost of said purpose will not exceed \$4,200,000.

SECTION 2. The Town Board plans to finance the maximum estimated cost of said purpose by the issuance of serial bonds in an amount not to exceed \$4,200,000 of said Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds. The cost of such improvements is to be paid by the issuance of serial bonds, and by the assessment, levy and collection of assessments from the several lots and parcels of land within the Districts which the Town Board shall determine to be especially benefited thereby, so much upon and from each in the same manner and at the same time as other Town charges, except as provided by law, sufficient to pay the principal of said bonds and the interest on such bonds as the same shall become due and payable.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall be the assessment, levy and collection of assessments from the several lots and parcels of land within each such District in the same manner and at the same time as other Town charges, except as provided by law, sufficient to pay the principal of and interest on such bonds as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes

issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

SECTION 8. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The Town has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

SECTION 12. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

(1) (a) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or

(b) if the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

(2) Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 13. The Town Clerk is hereby authorized and directed to

Publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said Town and designated as the official newspaper of said Town for such publication.

SECTION 14. This Resolution is effective immediately.

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MOTION was made by Councilwoman Pew to approve the resolution as presented; seconded by Councilman Vacco; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

5. Annual Association of Towns Meetings – Voting Delegate and Authorization to Attend

Supervisor Nellis stated that the 2008 Training School and Annual meeting of the Association of Towns of the State of New York will be held at the Hilton New York & Towers, New York City, February 17-20, 2008. This is a training session for town officials with the following officials requesting approval to attend: Glenn R. Nellis, Supervisor, Mary Lou Pew, Councilwoman, Ed Krycia, Councilman, Vince Vacco, Councilman and Rich Ventry, Councilman.

MOTION was made by Councilman Vacco to approve attendance to the 2008 Training School for the above-mentioned Town Board members; seconded by Councilman Ventry; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis stated that the Town board must designate a Voting Delegate and an Alternate Voting Delegate to attend the Annual Business Session of the Association of Towns of the State of New York.

MOTION was made by Councilwoman Pew to designate Vince Vacco as Voting Delegate and Glenn Nellis as Alternate Voting Delegate; seconded by Councilman Ventry; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

Supervisor's Report:

- Received notification of \$25,000.00 State Farmland Protection Study grant funding, the only one in Erie County.
- Received Traffic Enforcement Grant in the amount of \$6,262.00.
- Received Mutual Plowing Agreement from the Town of North Collins.

Hearing of Visitors:

Pat Howard, Eden Chief of Police stated that Robert Brueggeman has retired after 35+ years as a part-time Police Dispatcher and wanted to publicly thank Bob for his years of service to the Town of Eden.

Adjournment:

MOTION was made by Councilman Ventry to adjourn the Regular Meeting of the Eden Town Board; seconded by Councilwoman Pew; All – "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 9:00 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 11:00 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk