

June 25, 2008

MINUTES

**WORK SESSION MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
JUNE 25, 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 (<i>arrived at 7:45 p.m.</i>)
RICHARD S. VENTRY	-	COUNCILMAN

OTHERS PRESENT:

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

Call To Order:

Supervisor Nellis called the Work Session 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.

Supervisor Nellis reported that the Kazoo Factory was featured on the NBC evening news this evening as one of the “American Originals”, reported by Roger O’Neil.

New and Unfinished Business:

1. Stormwater Fees

Supervisor Nellis requested setting a Public Hearing for the fee schedule for Reviewing Stormwater Prevention Plans and Site Inspections for August 13, 2008 at 8:00 p.m.

MOTION was made by Councilwoman Pew to set a Public Hearing for August 13, 2008 at 8:00 p.m. for reviewing the fee schedule for Stormwater Prevention Plans and Site Inspections; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

2. Proposed Cold War Veterans Legislation

Supervisor Nellis requested setting a Public Hearing for Proposed Local Law No. 1-2008 for Cold War Veterans Exemption.

MOTION was made by Councilwoman Pew to set a Public Hearing for August 13, 2008 at 8:15 p.m. for Proposed Local Law No. 1-2008 for Cold War Veterans Exemption; seconded by Councilman Krycia; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

3. Zoning Board Appointments – Alternate Members

Supervisor Nellis read correspondence from Ann Knack, Administrative Assistant, regarding Zoning Board Appointments for Alternate Members. The following appointments of alternate members are:

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1st Alternate Zoning Board Member – C. William Carpenter
2nd Alternate Zoning Board Member – Kristen Kent

MOTION was made by Councilwoman Pew to appoint C. William Carpenter as 1st Alternate Zoning Board Member and Kristen Kent as the 2nd Alternate Zoning Board Member; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

4. Status Report – Unsafe Structure – 2718 West Church Street

William Trask, Town Attorney stated that he spoke to the Attorney for the purchaser and the sale is to close this week. Within 2 weeks of closing, the new owner will be obtaining the necessary permits for demolition or repair.

5. Resolution – Mandatory Training for Planning Board and Zoning Board Members

Supervisor Nellis requested that this item be moved to “Old Business” after speaking with Lucille Kaminski, Eden Zoning Board Chairman for further review with her committee.

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

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

MOTION was made by Councilman Ventry to open the Public Hearing for the purposes of the Joint Increase and Improvements to Shadagee Road Transmission Water Line; seconded by Councilman Vacco; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

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

**8:00 P.M.
Joint Increase and Improvements to
Shadagee Road Transmission Water Line**

Mark Cavacoli, CRA Infrastructure & Engineering stated that the purpose of the Public Hearing is to recommend amending the joint increase and improvement to the Shadagee Road transmission water line from 12” pipe to 16” pipe, with an increased project cost from \$4,200,000.00 to \$5,280,000.00.

The following persons spoke in favor of the increase:

Vince Vacco, Town Councilman
Robert Stickney, Lourdes Drive

The following persons had questions regarding the increase:

Mike Steffan, Shadagee Road

All persons desiring to be heard, having been heard, Supervisor Nellis closed the Public Hearing at 8:15 p.m.

MOTION was made by Councilwoman Pew to close the Public Hearing; seconded by Councilman Vacco; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

MOTION was made by Councilwoman Pew to open the Work Session of the Eden Town Board; seconded by Councilman Vacco; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

6. Kim Soda, Police Clerk – Pay raise

Supervisor Nellis read correspondence from Patrick Howard, Chief of Police regarding a pay raise for Kim Soda, Police Clerk. It was noted that her responsibilities have increased, warranting the increase in pay from \$30,811.00 to \$36,000.00.

MOTION was made by Supervisor Nellis to increase the pay of Kim Soda, Police Clerk to \$36,000.00; seconded by Councilwoman Pew; “Ayes”? Nellis, Krycia, Pew, Ventry; Opposed? – Vacco; Abstain? – None; Motion carried.

Note: Councilman Vacco stated that he opposed the pay increase because of the timing of the increase, stating it should be reviewed at budget time.

7. Recreation – adjustments

Supervisor Nellis read correspondence from Susan Brass, Recreation Director regarding summer staff adjustments. Rachel Phillips from Lifeguard to Head Lifeguard replacing Neil Kerwin at \$7.75 an hour and Leah Braymiller from CIT to lifeguard replacing Rachel Phillips at \$7.35 an hour. It was noted that these are not new or additional positions, simply replacements for already approved staff that have since declined or resigned the position offered.

MOTION was made by Councilman Ventry to approve the staff adjustments as presented by Susan Brass, Recreation Director; seconded by Councilwoman Pew; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

8. Speed Limit Committee

Supervisor Nellis stated that the committee would make a presentation at the August Town Board Meeting.

9. Resolutions – Shadagee Road Water Line

William Trask, Town Attorney 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 DISTRICT NOS. 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 District Nos. 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 revised 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 16-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 revised 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 \$5,280,000; said cost to be financed by the issuance of serial bonds of the Town in the amount of \$5,280,000, offset by any federal, state, county and/or local funds; and

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WHEREAS, the project cost has increased from \$4,200,000 to \$5,280,000 due to an increase in the size of the transmission main along Shadagee Road from 12 inches to 16 inches; 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

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 May 28, 2008 meeting calling for a public hearing to be held at the Town Hall, Eden, New York, on June 25, 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 \$5,280,000; 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 \$5,280,000, 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 Krycia to adopt the resolution as presented; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

William Trask, Town Attorney read the following resolution:

A BOND RESOLUTION, DATED JUNE 25, 2008, OF THE TOWN OF EDEN, ERIE COUNTY, NEW YORK, AMENDING THE BOND RESOLUTION ADOPTED ON JANUARY 9, 2008, AND AUTHORIZING THE JOINT INCREASE AND IMPROVEMENT OF FACILITIES OF THE TOWN OF EDEN CONSOLIDATED WATER DISTRICT AND WATER DISTRICT NOS. 1, 2, 3, 3A AND 4 AT A MAXIMUM AMOUNT NOT TO EXCEED \$5,280,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,280,000, OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED FOR SAID OBJECT OR PURPOSE OR REDEMPTION OF THE TOWN'S OBLIGATION ISSUED THEREFOR, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

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 of Facilities of the Town of Eden Consolidated Water District and Water District Nos. 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 16-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.

WHEREAS, the Town Board desires to adopt this amending bond resolution to restate and amend a certain bond resolution adopted on January 9, 2008 for said project, the cost of which has increased from \$4,200,000 to \$5,280,000 due to an increase in the size of the transmission main along Shadagee Road from 12 inches to 16 inches, and authorized the financing thereof.

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 District Nos. 1, 2, 3, 3A and 4

(the "Districts") in the Town of Eden. The maximum cost of said purpose will not exceed \$5,280,000.

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 \$5,280,000 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 15c2-12, 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.

SECTION 15. Nothing in this amendment shall affect the validity of the original January 9, 2008 bond resolution or any action taken thereunder and any said actions are hereby ratified.

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

Supervisor’s Report:

- Supervisor Nellis stated that a ceremony would be held on July 2, 2008 at 2:00 p.m. for the re-opening of the Erie Canal and all are invited to attend.
- Supervisor Nellis also stated that construction has begun on the Industrial Road.

Hearing of Visitors:

Wilbert Smutz

Adjournment:

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

Supervisor Nellis adjourned the Work Session Meeting of the Eden Town Board at 8:50 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board at 10:30 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk