

August 12, 2015

**MINUTES**

**REGULAR MEETING – EDEN TOWN BOARD  
2795 EAST CHURCH STREET  
EDEN, NEW YORK  
AUGUST 12, 2015  
7:30 P.M.**

**TOWN BOARD MEMBERS PRESENT:**

GLENN R. NELLIS	-	SUPERVISOR
MARY LOU PEW	-	COUNCILWOMAN
EDWARD KRYCIA, JR	-	COUNCILMAN
RICHARD S. VENTRY	-	COUNCILMAN
FRAN MCLAUGHLIN	-	COUNCILMAN

**DEPARTMENT HEADS PRESENT:**

Stephen Waldvogel	-	Town Engineer
Michael J. Felschow	-	Chief of Police
Matthew Colvin	-	Eden Fire Chief
Andrew Breier	-	East Eden Fire Chief
Robert Pietrocarlo	-	Chairman Board of Assessors
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 July 8, 2015; there were none.

**MOTION** was made by Councilman Ventry to approve the Town Board Minutes of July 8, 2015 as presented; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Petitions:**

Carl Modica, 2637 Hemlock Road, presented the following petition:

To: Supervisor Nellis and Town of Eden Board Members

Hemlock is zoned residential and vehicles that exceed weight limits should be banned from traveling between Eden-Evans Center Road and Depot Street. My signature is affixed below to express my concern with the use of Hemlock Road as a truck route. I am particularly against the largest: TRACTOR TRAILERS. We wish to have proper signage installed to enable police enforcement. There literally is no room for these large vehicles. Hemlock is residential!!! We, the citizens of the Hemlock Road neighborhood, thank you for your attention to this matter.

**Note:** The petition was presented to the Town Board contained 48 signatures and 3 photos.

**Budget Transfers/Amendments:**

<b>From Account</b>	<b>To Account</b>	<b>Reason for Amendment</b>	<b>Amount</b>
A2705 Gifts & Grants	A1620.4 Town Hall – Contractual	Use of Keep America Beautiful Grant Money	\$1,217.17
A1990.4 Contingent Fund	A3989.1 Other Public Safety Personal	Establish clerk position for Disaster Preparedness	\$500.00
A1990.4 Contingent Fund	A3020.4 Public Safety Comm. System	Code Red System & Flyers	\$5,900.00
A915.6 Assigned Non Rec	A8540.4 Drainage – Contractual	Off-Road Drainage project assigned 2014 funds	\$1,450.00
A2192 Cemetery Services	A8810.1 Cemetery-Personal	Personnel costs for North Evans cemetery	\$500.00
A2192 Cemetery Services	A8810.4 Cemetery Contractual	Costs associated with burials at North Evans cemetery	\$175.00

**MOTION** was made by Councilwoman Pew to approve the Budget Transfers/Amendments as presented; seconded by Councilman Ventry; 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	447-531	\$69,725.15
Highway Dept. Fund	184-222	\$164,303.45
Fire Dept. Fund	149-177	\$13,555.16
Recreation Dept. Fund	74-96	\$9,093.06
Refuse and Garbage Fund	10-12	\$76,947.91
Street Lights Fund	18-20	\$4,067.74
Water Fund	22-27	\$6,347.96
Trust & Agency Fund	--	--
Capital Fund H3410.2 H8320.402 H8302.403 H8320.404	11-14	\$94,420.12
Community Development	--	--

**MOTION** was made by Councilwoman Pew 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 July 2015 were presented by Matthew Colvin, Eden Fire Chief; Andrew Breier, East Eden Fire Chief; Michael Felschow, Eden Police Chief; Ray Zabron, Dog Control Officer; Supervisor Nellis for Ronald Maggs,

Superintendent of Highways; William Trask, Town Attorney; Mary Jo Hultquist, Town Clerk; Supervisor Nellis for Mark Clark, Zoning Code Enforcement Officer; Supervisor Nellis for Susan Brass, Recreation Director; Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk's office.

Michael Felschow, Chief of Police reported that the Code Red System was used for the first time to locate a lost individual in East Eden.

Supervisor Nellis reported for Ron Maggs, Highway Superintendent on road closures for North Boston Road from August 19 – August 31 and New Oregon Road from August 17 – August 28. Also, bids have gone out for 1.3 miles of road on Eden Evans Center Road, to be completed by November.

#### **New and Unfinished Business:**

##### **1. Plaque Presentation by United Way to the Town of Eden**

Supervisor Nellis introduced Dave Wilson from United Way who presented a Plaque to the Town of Eden for their continued support for their annual campaign.

##### **2. Feasibility Study, Final Report Water Consolidation**

Stephen Waldvogel, GHD Engineering presented a Feasibility Study, Final Report to the Town Board. Mr. Waldvogel is requesting that the Town Board receive the final report and review its findings so that it may be submitted to the State.

The Feasibility Study was conducted to consider changing from the current Lease Management agreement to a Direct Service agreement with the Erie County Water Authority (ECWA) through a consolidation of water systems for the provision of water to the Town residents.

**MOTION** was made by Councilman McLaughlin to receive the Feasibility, Final Report and review the findings; seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Mr. Waldvogel stated that the town board would now need to decide if they choose to move forward with the consolidation, a draft project schedule was provided to the town board.

Supervisor Nellis stated that the town board would be prepared to make a decision at the next town board meeting on August 26, 2015.

##### **2a. Waterline Improvement Project**

Stephen Waldvogel, GHD Consulting Services Inc., offered a proposal to provide continuing construction administration and resident inspection services in association with the construction of the Waterline Improvements on Green, Depot, Erie and West Church Streets, and Sunset Avenue (the "Project").

Mr. Waldvogel stated that the project was originally scheduled to be completed by July 28, 2015; however, the Contractor has requested a time extension of another 5 weeks to September 1, 2015. The reasons for the requested extension generally include:

- During the construction of the project it was found that the Level 3 fiber optic cable, which runs parallel to the Buffalo Southern Railroad, was installed approximately 10 feet in depth at the location of the proposed boring. This varied from the available information that indicated that the cable to be buried approximately 5 feet deep at this location.
- The proposed boring under the railroad tracks had to be relocated south of the original location due to this conflict. The new boring location required installation of the bore through the parking lot near the depot building.

- During re-design of the casing-pipe bore, GHD identified that there may be potential issues related to Town facilities installed within private property in this area. The Town Attorney was advised of this situation.
- GHD provided additional design services to redesign the boring at the new location. GHD coordinated with Buffalo Southern Railroad, the Erie County Industrial Development Agency and the Town Attorney to obtain the necessary approvals for construction.
- During this time, the Town Attorney contacted the railroad and the property owner to obtain the easement necessary for construction of the boring. Numerous negotiations were held with the property owner to acquire the easement. GHD assisted in this effort.
- Finally, there were additional incidental delays to the Contractor resulting from unfamiliarity with the extended scheduling requirements for waterline shutdowns with ECWA.

The overall impact of this change to the project resulted in a delay of approximately 5 weeks for which the Contractor is requesting the time extension. As a result of the additional construction administration and residential inspection work not anticipated when the project was initiated; GHD has exhausted its current budgeted allowance. Consequently, GHD is requesting by way of this proposal, additional allowances for construction administration and resident inspection services to support the additional 5 weeks until project completion.

Finally, it is important to note that we anticipate the overall project to be completed well under budget even with the requested amendments. Furthermore, as a result of the various changes, the Town Attorney was able to negotiate an easement with the property owner, which also covered the other Town-owned waterlines installed within the private property on Depot Street. This will benefit the Town going forward since all Town-owned waterlines along Depot Street are now to be covered by the easement.

Mr. Waldvogel then presented the proposed scope of work that would be necessary and based upon the scope of work detailed in the report, GHD will complete the professional services required for the fees shown below:

Construction Administration Services	\$4,000 Lump Sum
Estimated Resident Inspection Services	\$17,000 Hourly Upset Allowance

Mr. Waldvogel also presented the Standard Terms for Professional Services to be signed and returned to GHD.

Much discussion ensued as to why other work couldn't have been completed during this time and whether or not the contingency budget would cover this amount, and it was confirmed by Mr. Waldvogel that the contingency budget would cover the additional costs.

**MOTION** was made by Supervisor Nellis to approve the proposal as presented, signing the proposal for the Standard Terms for Professional Services; seconded by Councilman Krycia; "Ayes"; Nellis, Pew, Krycia, McLaughlin; Opposed?- Ventry; Abstain; - None; Motion carried.

**MOTION** was made by Councilwoman Pew to close the regular meeting of the town board and open the scheduled hearing for 8:00 p.m.; seconded by Councilman McLaughlin; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

August 12, 2015

**8:00 P.M.  
Hearing  
Renee Adams  
Special Use Permit**

Supervisor Nellis read the following resolution:

**RESOLUTION CALLING FOR A HEARING ON THE PROPOSED  
REVOCATION OF A SPECIAL USE PERMIT ISSUE TO RENEE ADAMS**

**WHEREAS**, the Eden Town Board originally issued a special use permit to Renee Adams (“permittee”) on August 13, 2008, allowing her to operate a dog kennel at 3424 Hickman road, Eden, New York, subject to certain conditions contained therein, and

**WHEREAS**, such special use permit has been renewed annually, subject to revocation if such conditions are not met, and

**WHEREAS**, a recent report from the Eden Dog Control Officer has determined that the permittee is in violation of one or more conditions and has failed to correct such violations and the Eden Town Board intends to revoke such special use permits,

**NOW, THEREFORE IT IS**

**RESOLVED**, the Eden Town Board will hold a hearing on August 12, 2015 at 8:00 p.m. local time during the regularly scheduled meeting of the Eden Town Board, giving the permittee an opportunity to appear and be heard on the proposed revocation of the said Special Use Permit issued to Renee Adams, Dog Kennel, 3424 Hickman Road, Eden, New York for failure to meet all conditions of the said Special Use Permit, including, but not limited to, condition number 5, which prohibits dogs exceeding 16 pounds from being on the premises, and it is further

**RESOLVED**, that permittee shall be provided notice of such hearing by first class mail sent to her last known address, and it is further

**RESOLVED**, that the Eden Town Board reserves the right to make a final decision regarding the proposed revocation of such special use permit following such hearing.

**Note:** Condition number 5 states that no dog on premises shall exceed 16 pounds.

Ray Zabron, Dog Control Officer stated that he spoke to her and she indicated that she did indeed have the larger dogs and intended to breed them.

Kurt Allen, interim Code Enforcement Officer gave her a letter of violation of the Special Use Permit, number 5, no dog over 16 pounds on the premises.

William Trask, Town Attorney stated that Renee Adams received notification by mail and that satisfied the requirement of notification.

Ray Zabron, Dog Control Officer stated that the dogs are a nuisance to the neighborhood.

No other comments were heard.

**MOTION** was made by Councilman McLaughlin to close the meeting; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**3. Code Red Status Report**

Robert Stickney stated that the Code Red information is on line to enroll or by calling the Supervisors office. Messages have gone out regarding road closures and can be defined to specific areas. The Code Red system has already proved to be a very useful tool.

**4. William Laing, Secretary to Emergency Management Committee – hours/wages**

**MOTION** was made by Supervisor Nellis to expand the hours for William Laing, Fire Clerk to perform the duties of Emergency Management Plan Committee Secretary for a maximum of 4 hours per month at the current rate of pay of \$12.50 per hour effective immediately; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**5. Good Samaritan Resolution**

Councilwoman Pew read the following resolution:

**RESOLUTION PROVIDING GOOD SAMAITAN  
COVERAGE TO EDEN VOLUNTEER  
FIREFIGHTERS AND AMBULANCE WORKERS**

**WHEREAS**, whenever a volunteer firefighter or ambulance worker of the Town of Eden provides services under General Municipal Law Section 209-I or Volunteer Ambulance Workers’ Benefit Law Section 5, when there is no jurisdictional officer in command present, such volunteer firefighter or ambulance worker shall be entitled to coverage under the VFL or VAWBL coverage provided by the Town of Eden for the provision of such services; and

**WHEREAS**, upon the arrival of a jurisdictional officer in command, such volunteer firefighter or ambulance worker shall report to such officer and offer his/her services to assist such fire or ambulance company or fire or ambulance department; and

**WHEREAS**, if such offer of assistance is not accepted, then the volunteer firefighter or ambulance worker of the Town of Eden must immediately cease providing any additional service at the scene of the emergency.

**IT IS THEREFORE RESOLVED**, that the Town of Eden will provide insurance coverage to volunteer firefighters and ambulance workers under General Municipal Law Section 209-I and Volunteer Ambulance Workers’ Benefit Law Section 5, until such time as a jurisdictional officer in command arrives on the scene, at which time it will be decided if his/her service to continue to assist is accepted by the commanding officer.

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

**6. Policy on use of town fuel pumps during emergency declaration**

Councilwoman Pew read the following policy:

To be added to Emergency Disaster Preparedness Plan:

**EMERGENCY USE OF TOWN FUEL PUMPS**

After a Town State of Emergency is declared by the Town Supervisor or Deputy Supervisor, emergency use of Town fuel supply may occur when other sources of fuel in Town are not available by:

1. A volunteer individual who is an active member of Fire/Police/EMS and doing business for the Town as designated by Emergency Management;
2. A local business when serving as volunteer business for needed services as designated by Emergency Management; or
3. Other uses for the benefit of the Town during that State of Emergency.

Approval to access Town fuel pumps may be given by any tow (2) Emergency Department Heads, or Town Board Members. A written record of all such usage shall be maintained by the Highway Superintendent, as keeper of fuel pump records, and provided to the Town Board.

**MOTION** was made by Councilwoman Pew to accept the policy as presented; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**7. Eden Bowling Center Renewal of Liquor License**

Supervisor Nellis stated this is informational in nature and it was received and filed.

**8. Schedule for Budget Hearings**

Supervisor Nellis stated that the schedules have been prepared for the Budget Hearings to be held in September, 2015.

**9. Approval of Police Car Purchase**

Supervisor Nellis read correspondence from Michael Felschow, Chief of Police regarding the purchase of a new 2016 Ford Explorer.

Purchase Price Per County Bid	\$26,972.00
Less Trade VIN #1FMFK16518LA82811	\$ <u>1,500.00</u> (2008 Ford Suburban)
	\$25,472.00

Requested And On’s to be billed separate:

66B Tail Lamp Package	\$ 371.00
66C Rear Lamp Package	\$ 398.00
86T RR Tail lamp HSG	\$ NC
Weather Mat	\$ <u>100.00</u>
	\$ 869.00

Also, the old Police Car, VIN #1FM5K8AR4DGA93951 will be transferred to the Dog Control Officer.

**MOTION** was made by Councilman Ventry to approve the purchase of the 2016 Ford Explorer to the Eden Police Department for \$25, 472.00 and to transfer the old police car to the Dog Control Officer; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? - None – Motion carried.

**Supervisor’s Report:**

Supervisor Nellis stated that the Association of Erie County Governments would be meeting at the American Legion on August 27, 2015 for their Regular Meeting with take-home veggies provided by the Town of Eden.

Supervisor Nellis also stated that the time and location for the hearing regarding the proposed Group Home on East Church Street will be determined soon, possibly the week of September 14<sup>th</sup>. Residents of Eden will be notified of the exact time and place.

August 12, 2015

**Hearing of Visitors:**

Missy Hartman, Hillbrook Drive asked if there are any plans in place to re-paint the cross walk in front of the Boys and Girls Club and who is responsible, the Town of Eden or Eden Central School.

Supervisor Nellis stated that it is a State Highway.

Councilwoman Pew stated that she has been in contact with Sandra Anzalone, Superintendent of Eden Central School District and they have 3 approvals that just came through to make changes, to be discussed at a later date.

Robert Stickney, Lourdes Drive stated that the cross walks at the 4 corners need to be re-painted also.

Ray Klein, Maple Avenue asked about several junkyards in the Town of Eden.

Councilwoman Pew stated that Mark Clark, CEO would need to be notified.

**Adjournment:**

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

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 8:55 P.M.

Respectfully submitted by,

Mary Jo Hultquist  
Town Clerk