

August 13, 2008

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
AUGUST 13, 2008
7:30 P.M.**

TOWN BOARD MEMBERS PRESENT:

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

DEPARTMENT HEADS PRESENT:

Dana Braun of Wendel - Town Engineer
Ronald C. Maggs - Superintendent of Highways
John McCarthy - Eden Police - Lieutenant
Chris Colvin - Eden Fire Chief
Andrew Breier - East Eden Fire Chief

OTHERS PRESENT:

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

Call to Order:

Supervisor Nellis called the Regular Meeting of the Eden Town Board to order at 7:30 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 9, 2008; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of July 9, 2008 as presented; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

Mr. John Almendinger, 2736 West Church Street presented a petition to the Town Board signed by residents in opposition of the proposed Verizon Wireless Telecommunications Tower adjacent to Swartz Field.

Budget Transfers/Amendments:

From Account	To Account	Reason for Amendment	Amount
A2001	A7310.4	To offset US Track & Field registration fee from Participant fees collected	\$718.30
A2192 Cemetery Services	A8810.4 Cemeteries Contractual	To apply money rec'd for burial against cost of grave opening & site marking and funeral oversee	\$538.75

A1990.4	A1420.4	Overage in legal fees from Stephen Ebling	\$1,934.44
A1990.4 Contingent Fund	A8020.4 Planning- Contractual	Over Budget – Wendel Invoices	\$1,572.75
A1990.4 Contingent Fund	A8540.4A Stormwater Mgmt.	Over Budget – Wendel Invoice	\$1,007.94

MOTION was made by Councilwoman Pew 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. Councilwoman Pew requested Voucher #451 and 452 on the General Abstract for Time Warner and Voucher #170 on the Fire Abstract for Time Warner be pulled for reimbursement for the Eden Highway Department and Fire Department for the months of July and August.

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	392-457	\$47,812.80
Highway Dept. Fund	197-221	\$182,461.23
Fire Dept. Fund	150-173	\$16,189.22
Recreation Dept. Fund	74-96	\$10,023.12
Refuse and Garbage Fund	9-11	\$96,401.62
Street Lights Fund	18-21	\$4,968.18
Water Fund	19-21	\$5,307.42
Trust & Agency Fund	--	--
Capital Fund		
H1440.4	3	\$2,548.46
H8320.4	4-6	\$48,493.27
H8320.4/A & B	7-9	\$859.52
Community Development	--	--

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

Departmental Reports:

Department reports for the month of July 2008 were received from 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; Andrew Reilly, Town Engineer; William Trask, Town Attorney; Mary Jo Hultquist, Town Clerk; Scott Henry, Zoning Code Enforcement Officer; Susan Brass, Recreation Director; 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 Jeremy Matte from the active roster of the Eden Fire Department as he is joining the U.S. Army.

MOTION was made by Councilwoman Pew to remove Jeremy Matte from the active roster of the Eden Fire Department with thanks and appreciation; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Andrew Breier, East Eden Fire Chief requested the Town Board add Aaron Brind’ Amour to the active roster of the East Eden Fire Department pending physical and background check.

MOTION was made by Councilman Vacco to add Aaron Brind’ Amour to the active roster of the East Eden Fire Department pending physical and background check;

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seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

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

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

MOTION was made by Councilwoman Pew to open the Public Hearing for the purposes of Proposed Local Law No. 2-2008 – Adding Stormwater Fees to Town’s Schedule of Fees Law; seconded by Councilman Krycia; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

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

8:00 P.M.
Public Hearing
Proposed Local Law No. 2-2008
Adding Stormwater Fees to Town of Eden Town
Schedule of Fees Law

Supervisor Nellis explained that the purpose of the public hearing was to listen to any concerns or questions that citizens have.

Dana Braun, Engineer for Wendel Duchscherer explained that the purpose of proposed Local Law No. 2-2008 is to add Stormwater Pollution Prevention Plans and Site Inspection Fees associated with the designated MS4 areas in the Town of Eden. The fee schedule was designed to fund the review so the town doesn’t absorb the fees.

Councilwoman Pew asked if a specific formula was used for the fee schedule or was it modeled after another municipality.

Dana Braun stated that they looked at other municipalities and Eden’s fee schedule as a starting point.

William Trask, Town Attorney asked if the fees were designed to cover engineering reviews or additional fees to reimburse the town’s fees. Mr. Trask stated that Ron Maggs, Stormwater Management Officer would be involved in site inspections, the cost should cover his time. Mr. Trask stated that this is a Local Law and the Town Board should take a good hard look now, as any changes would result in additional public hearings to make changes to the local law.

Dana Braun stated the additional fees are to cover engineering costs. Ms. Braun will verify the cost split and get that information back to the Town Board.

Mr. Trask requested that Ms. Braun take this information back to the firm and get a written quote in fees anticipated, will this be a flat-fee basis?

Councilwoman Pew stated that this information would be shared with the Code Review Committee for review.

The following residents made comments:

Robert Stickney questioned the high cost of development for businesses and would it be a conflict of interest.

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

8:15 P.M.
Proposed Local Law No. 1-2008
“Cold War” Veterans Exemption

Supervisor Nellis explained that the purpose of the public hearing was to listen to any concerns or questions that citizens have.

The following residents made comments:

Frank Mantione, already receiving a veteran’s exemption. Could a person receive more than one veteran’s exemption?

William Trask, Town Attorney stated a veteran could only apply for one exemption and that this exemption would only apply to Town Taxes.

Councilman Krycia asked if any calculations had been done locally and if this would have a significant impact on the town.

Jerry Donohue stated that only ten (10) people in the Town of Eden would be eligible for this particular exemption, only (3) that he knows personally, as you must possess a specific “Certification” during the course of the Cold War. Mr. Donohue then thanked the veterans for their service in the Cold War.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the public hearing at 8:20 p.m.

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

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

New and Unfinished Business:

1. Update of Town of Eden Water Projects

Supervisor Nellis read the following statement:

Due to an error on public hearing date on the cover page of the Public Notice that Was sent to press and the affected residents, the Public Hearing for this project could not take place tonight. The Public Hearing will be rescheduled by the Town Board and public notices will be appropriately distributed.

The Consulting Engineers for the Town are further reviewing the Map, Plan and Report to consider the financing impact on the project, based on revised, increased interest rates that have been received from Rural Development. There is no expected increase in construction costs but financing costs may be impacted.

The Consultants will be prepared to present all reviews and information to the Board and the public at a public hearing in the near future.

2. Discussion and Decision – Special Use Permit Request – Verizon Wireless – Telecommunications Tower adjacent to Swartz Field

Supervisor Nellis read the following statement:

“The Town Board, as elected officials of the town, are required to make decisions on behalf of all citizens of the town. This decision on the Verizon Tower is among the hardest for us to make as we know there are diverse opinions on this tower.

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Over the past 2-1/2 years, the town has conducted 3 different public hearings on the locations of a Verizon Cell Tower. In addition, all meetings of Town Boards/Committees are open to the public. This includes the Planning Board, Zoning Board and Recreation Advisory Board, all of which have met and discussed this subject as required. The process of review required by the State of New York is extensive but the Town Board is now prepared to make a decision tonight.

Initially I will read out loud a State Environment Quality Review Resolution for Board vote and secondly, another resolution approving this location for the tower with various required conditions cited."

Supervisor Nellis read the following resolution:

TOWN BOARD OF THE TOWN OF EDEN
STATE ENVIRONMENTAL QUALITY REVIEW ACT
Negative Declaration (August 13, 2008)

WHEREAS, Upstate Cellular Network d/b/a Verizon Wireless ("Verizon Wireless:") proposes to construct and operate a cellular telephone transmission facility (the "Project") on property to be leased from the Town of Eden, on property commonly known as West Church Street near 8540 North Main Street (SBL No. 238.07-1-40) in the Town of Eden; and

WHEREAS, Verizon Wireless has applied to the Town of Eden Town Board (the "Board") for a tower special permit with respect to the Project (with companion applications to the Planning Board and Zoning Board of Appeals); and

WHEREAS, the Project was duly referred to the Erie County Department of Planning pursuant to General Municipal Law §239-m, and a response of "no recommendation" was received on such zoning referral, and

WHEREAS, the Board has reviewed the Project and Verizon Wireless' application materials, including the Environmental Assessment Form, the various engineering reports on design and radio frequency emissions and all other materials submitted in connection with this application; and

WHEREAS, the Board conducted public meetings and/or public hearings on the Project, including on July 11, 2007, November 4, 2007 and July 9, 2008, at which meetings Verizon Wireless made presentations and the public was afforded the opportunity to be heard; and

WHEREAS, in response to public comment and official input Verizon Wireless assessed and submitted materials on alternative sites; and

WHEREAS, the Project is an unlisted action under the State Environmental Quality Review Act ("SEQRA"), and the board has conducted a single agency review of the Project; and

WHEREAS, the Board has taken a "hard look" at all potentially adverse environmental impacts pursuant to SEQRA.

NOW THEREFORE, be it resolved by the Board that:

Based upon the Board's thorough and careful review of the Project and Verizon Wireless' application materials, including the Environmental Assessment Form and all other materials submitted in connection therewith, the Board hereby determines that the Project will not result in any significant environmental impacts and hereby issues a negative declaration for the Project pursuant to SEQRA.

REASONS SUPPORTING THE NEGATIVE DECLARATION:

1. Air, Water, Noise, Waste, Erosion, Drainage, Site disturbance Effects:

The Project will not create any adverse change in the existing air quality, water quality of noise levels, nor in solid waste production, nor potential for erosion, nor promote flooding or drainage problems. The Project will produce a minimal disturbance of soil and vegetation, with minimal storm run-off.

2. Aesthetics, Agriculture, Archeology, History, Natural or Cultural Resource, Community or Neighborhood Character:

The Project will not adversely affect agricultural, archeological, historical, natural, or cultural resources. The Project is a public utility, which must be located as and where necessary to provide essential cellular telephone service. Although a facility of this nature will be visible, it has been sited responsibly so as to minimize visual impact. While the Board recognizes the possibility that introduction of the tower might cause some people to be concerned with respect to aesthetics, the Board has determined that the Project is sited so as to minimize any visual impact the Project may have, and is the best location given the alternatives, and the competing interests involved. In support of that conclusion, the Board has viewed photographic reports and visual simulations of the Project. In addition, the Board notes that the tower will not need to be lit in accordance with FAA regulations. Further, the Board has found that the visual impact if further reduced by the wooded areas around the Project site, partially masking the view of the tower from surrounding areas. Finally, the Board notes that this site required fewer variances from the Town's Telecommunications Facilities Law bulk regulations than other sites, which were considered because of its location at the westerly edge of the hamlet area for which Verizon required coverage.

3. Vegetation, Fish, Wildlife, Significant Habitats, Threatened or Endangered Species.

No plan of animal life will be adversely affected by the Project.

4. Community Plans, Use of Land or Natural Resources.

The Project is in keeping with official community plans and goals and will have no adverse effects on land-use or the use of natural resources by or in the community.

5. Growth, Subsequent Development, etc.

The Project will not induce any significant or adverse growth or subsequent development.

6. Long Term, Short Term, Cumulative, or Other Effects.

The Project will not have any significant or adverse growth or subsequent development.

7. Critical Environmental Area.

The Project will not have an impact on any Critical Environmental Area as designated in 6 NYCRR, subdivision 617.4 (g).

8. Public Health and Safety.

Verizon has submitted engineering reports establishing acceptable structural design standards and projecting radio frequency emission levels which are well below the exposure limits and guidelines established by the Federal Communications Commission and which, by law, are binding upon the Board. Accordingly, the Board finds no adverse impacts on the public health. The Board recognizes that the Project will enable Verizon Wireless to provide improved

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cellular telephone service in the “hamlet” area of Eden, enabling individuals, businesses and emergency service providers to have access to an essential service. The Board received testimony from Verizon Wireless explaining that there currently is a lack of service coverage in the area of the proposed tower.

**PUBLIC BENEFITS OF PROPOSED PROJECT
RECOGNIZED BY STATE REGULATORY AGENCIES**

Verizon Wireless is a public utility licensed and regulated by the Federal Communications Commission and is charged with the responsibility of providing cellular service to emergency services, businesses, and individuals in the Eden area.

As cellular services grow and mature, many public safety organizations have adapted cellular service as a means of communications. These users require very reliable communications as a matter of public safety. The proposed additional antennas will allow the bypass of the unreliable wire line connection and provide a much higher capacity and more reliable connection. This will greatly enhance the dependability of cellular telephone service for the public safety of citizens of Eden and for individual users alike.

6NYCRR §617.1 states that it is the intention of the SEQR regulations “that a suitable balance of social, economic and environmental factors be incorporated in the planning and decision making of State, regional and local agencies. It is not the intention of SEQR that environmental factors be the sole consideration in decision making.”

This Board has considered all the evidence submitted by Verizon Wireless and has determined that the Project will not have a significant adverse environmental effect on the community.

Notice of this determination of non-significance shall be filed to the extent required by the applicable regulation under SEQRA or as may be deemed advisable by the Board.

MOTION was made by Supervisor Nellis to approve the resolution as presented; seconded by Councilman Vacco; “Ayes”? – Nellis, Krycia, Vacco; Opposed? – Pew, Ventry; Abstain? – None; Motion carried.

Supervisor Nellis read the following resolution:

**RESOLUTION OF THE EDEN TOWN BOARD
At a Meeting of the Eden Board Held on August 13, 2008
The Following Resolution was offered:**

WHEREAS, on or about March 16, 2006, the Town of Eden received an application from Upstate Cellular Network, d/b/a Verizon Wireless (hereinafter “Verizon”, “applicant” or “permitee”) for the siting, construction and operation of a telecommunications facility in the hamlet area of the Town of Eden, and

WHEREAS, as a result of input from the Eden Planning Board and the public, Verizon has investigated and undertaken studies relative to several sites within the hamlet area, and

WHEREAS, the Eden Planning Board and the Eden Town Board have held multiple public meetings and hearings and have received significant public input relative to the several sites, and

WHEREAS, the Eden Planning Board has recommended to the Eden Town Board the issuance of a Tower Special Permit for a site located on property owned by the Town of Eden, adjacent to Swartz Field, subject to certain conditions, and

WHEREAS, the Eden Town Board has negotiated and approved a lease agreement with Verizon for the siting, construction and operation of the proposed telecommunication tower and appurtenant facilities on the subject property owned by the Town of Eden and located adjacent to Swartz Field, and

WHEREAS, on May 28, 2008, the Town of Eden's proposed lease of such property to Verizon was authorized by resolution of the Eden Town Board, subject to permissive referendum. And

WHEREAS, such resolution was duly published and posted as required by law and such permissive referendum period has passed without receipt of a petition requesting a referendum on the proposed lease, and

WHEREAS, a referral on the proposed issuance of the Tower Special Permit was made to the County of Erie pursuant to General Municipal Law Section 239-m and the Town of Eden received a response from the County of Erie indicating no recommendation, and

WHEREAS, the Eden Town Board has considered the impact of the proposed tower under the requirements of the New York State Environmental Quality Review Act (SEQRA) and has issued a negative declaration under applicable provisions of SEQRA.

NOW THEREFORE IT IS HEREBY RESOLVED that the application of Verizon for a Tower Special Permit for the subject property shown on the site plan may, under Chapter 197 of the Town of Eden Code is hereby granted with the following conditions:

1. The tower shall be a monopole design, meeting the design standards submitted with the application and the requirements of Chapter 197 of the Town of Eden Code and shall not exceed 195 feet in height. This permit allows the applicant to affix to the tower up to two (2) cellular antennas and two (2) PCS antennas on each of three (3) faces for a total of twelve (12) antennas as specified in the June 4, 2008 letter from Millennium Engineering, P.C., with appurtenant equipment. Site improvements shall comply with the approved site plan and will include relocation of existing electrical service lines at Swartz Field.
2. The top of the tower shall contain a single, non-blinking light sufficient to be visible to low-flying aircraft.
3. Applicant shall comply with the co-location standards set forth in Chapter 197 of the Town of Eden Code which encourage co-location on existing structures so as to reduce the need for new towers and shall allow municipal services such as police, fire, EMS to co-locate without rent or other charge, provided such co-location can be accommodated without exceeding the load capacity of the tower and without unreasonably interfering with the performance of existing equipment already at the site.
4. All equipment and operations at the tower site shall, at all times, comply with applicable federal standards relative to electromagnetic and radio frequency radiation emissions and applicant shall be responsible for compliance with the reports and conditions required by Section 197-5 © of the Town of Eden Code relative to such emissions. In addition to such biennial inspections and reports, the Town may require applicant to perform up to two (2) additional sets of measurements of the operational emissions annually at locations specified by the Town to verify compliance with FCC emissions standards.
5. This permit shall be subject to additional conditions, restrictions, or revocation in the event of modification to current federal laws, rules or regulations which restrict a municipality's ability to consider the environmental health impacts of electromagnetic and RFE's in zoning approvals for telecommunication facilities.
6. At all times, applicant shall comply with the requirements of Section 197-5 (E) of the Town of Eden Code by delivering to the Town and maintaining a performance (demolition) bond and providing the periodic engineering certifications as to the cost of removal and property restoration.
7. Applicant shall comply with the structural safety inspection and engineering certifications required by Section 197-5 (F) of the Town of Eden Code.
8. The references herein to specific provisions of the "permit standards" contained in Section 197-5 of the Town of Eden Code are made for purposes of highlighting

some of those standards and conditions and are not intended to limit the applicability of other conditions set forth in Section 197-5 which remain applicable to this permit even though they are not highlighted herein.

9. Applicant is on notice as to the concerns expressed by owners or operators of neighboring properties, including, but not limited to, Buffalo Southern Railroad, and this permit is specifically conditioned upon the tower being designed, constructed, operated and maintained, as represented during the processing of the application, so that, in the event of failure, the tower will collapse within the leased parcel and no damage will be sustained by any area outside of the leased parcel.
10. This permit shall be renewable annually, subject to such conditions as may be deemed reasonable and necessary by the Town Board based upon the operational experience of the facility.

MOTION was made by Supervisor Nellis to approve the resolution as presented; seconded by Councilman Vacco; “Ayes”; Nellis, Vacco; Opposed? - Pew, Ventry; Abstain? – Krycia; **The motion was declared lost.**

3. Discussion and Decision – Special Use Permit Request – Dog Kennel at 3424 Hickman Road

Supervisor Nellis read the following resolution:

**RESOLUTION OF EDEN TOWN BOARD
SPECIAL PERMIT – DOG KENNEL AND BREEDING FACILITY
3424 HICKMAN ROAD**

WHEREAS, the Town of Eden previously received an application from Renee Adams (hereinafter “applicant” or “permittee”) for a special permit to establish and operate a dog kennel and breeding facility at 3424 Hickman Road in the Town of Eden, and

WHEREAS, this application was referred to the Eden Planning Board for site plan review and approval, and

WHEREAS, the Eden Planning board has approved the site plan for the proposed facility and has indicated that the Zoning Board of Appeals has granted all required variances for such facility, and

WHEREAS, the Eden Planning Board has recommended that the Eden Town Board include certain conditions to the special permit, and

WHEREAS, the Eden Town Board has held a public hearing and has received public input relative to the proposed facility, and

WHEREAS, the Eden Planning Board has reported to the Town Board that the proposed use is a Type 2 action under the New York State Environment Quality Review Act (SEQRA) and therefore no determination of environmental impact is required, and

WHEREAS, based upon the information it has obtained as a result of the processing of the application, the proceedings before the Planning Board and Zoning Board of Appeals and the public hearing held by the Town Board, and taking into consideration the public hearth, safety and welfare and the comfort and convenience of the public in general and the residents of the immediate neighborhood in particular, the Eden Town Board makes the following findings:

1. All proposed structures, equipment and materials will be readily accessible for fire and police protection.
2. The proposed use is allowable in this zoning district by special permit and, in general, will be in harmony with the appropriate and orderly development of the zoning district in which it is located and will not be detrimental to the orderly development of adjacent properties, given the location, size and

character of the proposed use and the conditions to which the special permit will be subject.

3. The proposed operations on this site should not result in hazardous or inconvenient impacts to vehicular and pedestrian traffic in the neighborhood.
4. The site improvements to be made in connection with the proposed use should not hinder or discourage the appropriate development and use of adjacent land and buildings.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the application for a special permit to establish and operate a dog kennel and breeding facility at 3424 Hickman Road in the Town of Eden is hereby granted, with the following conditions:

1. This permit shall be subject to annual renewal and may be subject to modification or revocation if the Town board reasonably determines that actual operation experience has resulted in new or unforeseen problems or negative neighborhood impacts, which must be mitigated.
2. Applicant shall maintain the premises in full compliance with the variances and the approved site plan.
3. Applicant shall, at all times, maintain on the premises and produce upon demand the dog control officer or code enforcement officer, such current and up to date licenses or permits as may be required for this operation by other governmental authorities.
4. The total number of adult (over one-year of age) dogs allowable on the premises at any time shall not exceed ten (10) and applicant must, upon demand of the dog control officer or code enforcement officer produce documentation establishing the age of all dogs on premises. Any dog for which satisfactory documentation cannot be produced shall be presumed to be an adult dog subject to the limit set forth herein.
5. No dog on premises shall exceed 16 pounds.
6. Applicant shall not deny access to the dog control officer and/or the code enforcement officer, upon reasonable notice and request of such officers, for purpose of monitoring applicant's compliance with these conditions.
7. This permit shall not be assignable or transferable.
8. Failure of the applicant to meet all conditions may result in suspension or revocation of this special permit.

Supervisor Nellis stated that Chris Colvin, Eden Fire Chief and Pat Howard, Chief of Police have inspected the site for access.

MOTION was made by Supervisor Nellis to approve the resolution for the Special Use Permit for a Dog Kennel at 3424 Hickman Road subject to site plan approval by the Eden Planning Board; seconded by Councilwoman Pew; "Ayes"; Nellis, Krycia, Pew; Opposed? - Vacco, Ventry; Abstain? - None; Motion carried.

NOTE: William Trask requested that the Town Board go into a brief Executive Session to discuss possible litigation.

MOTION was made by Councilman Krycia to go into Executive Session; seconded by Councilman Ventry; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

The Town Board members and Town Attorney entered Executive Session at 9:10 p.m.

MOTION was made by Councilman Krycia to return to the Regular Meeting of the Eden Town Board at 9:30 p.m.; seconded by Councilman Ventry; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

4. Status Report on Unsafe Structures at 2718 West Church Street and 2739 Sunset Drive

Supervisor Nellis stated that the demolition permit has been issued and demolition has occurred at 2718 West Church Street.

William Trask, Town Attorney stated that he is awaiting word from the court on the status of 2739 Sunset Drive.

5. Resolution – Farmland Protection Implementation Grant

Supervisor Nellis read the following resolution:

**RESOLUTION
ON
APPLICATION TO NEW YORK STATE FOR A
FARMLAND PROTECTION IMPLEMENTATION GRANT**

WHEREAS, the Town of Eden is working on a Farmland Protection Plan for the municipality, expecting to have it for state approval in the late fall; and

WHEREAS, the Town has a history of supporting agriculture by including strong support in the current Comprehensive Plan; developing a plan in 1998 titled Eden’s Foundation for Agricultural Development and Farmland Protection; and adopting a local Right to Farm law; and

WHEREAS, the Town, in cooperation with the Western New York Land Conservancy, can assist in the permanent protection of approximately 200 acres of farmland by the farm landowners voluntary sale of development rights; and

WHEREAS, American Farmland Trust, specifically Diane Held, will work with the Town in filling out the appropriate New York State application; and

WHEREAS, Town government will offer in-kind contributions of time/talent, in support of the application process.

NOW, THEREFORE BE IT RESOLVED THAT; the Eden Town Board supports application to New York State for a Farmland Protection Implementation Grant to fund the permanent protection of approximately 200 acres of farmland in our Town.

MOTION was made by Supervisor Nellis to adopt the resolution as presented; seconded by Councilwoman Pew; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

6. Resolution on Advancing the Great Lakes

Supervisor Nellis read the following resolution:

**RESOLUTION
NOMINATING THE INTERNATIONAL JOINT COMMISSION
FOR A STOCKHOLM WATER PRIZE**

WHEREAS, the International Joint Commission (IJC) has existed to oversee the implementation of the Boundary Waters Treaty (1909) between Canada and the U.S.; and

WHEREAS, the Boundary Waters Treaty will celebrate 100 years of continuous force and effect governing water resources management along the Canada-U.S. border; and

WHEREAS, the Stockholm Water Prize suitably recognizes institutions (among others) for outstanding water-related activities; and

WHEREAS, the IJC represents a model of governance of international water stewardship goals; and

NOW, THEREFORE BE IT RESOLVED THAT the Town of Eden joins the Regional Municipality of Niagara in nominating the International Joint Commission for the 2009 Stockholm Water Prize.

MOTION was made by Supervisor Nellis to adopt the resolution as presented; seconded by Councilwoman Pew; All "Ayes": Opposed? – None; Abstain?- None; Motion carried.

7. Resolution acknowledging required audit of the Town Justice Court

Supervisor Nellis read the following resolution:

**RESOLUTION ACKNOWLEDGING AUDIT REPORT FOR
EDEN JUSTICE COURT**

WHEREAS, Section 2019-a of the Uniform Justice Court Act requires that town and village justices annually provide their court records and dockets to their respective town and village auditing boards and that such records then be examined and that fact entered into the minutes of the board's proceedings; and

WHEREAS, the Eden Town Justice court records and dockets for the year ending December 31, 2007 have undergone the required examination by the Town's independent auditing firm of Drescher & Malecki;

NOW, THEREFORE the Eden Town Board goes on record acknowledging that the required audit of the Town of Eden Court's financial records for the year 2007 was conducted and tat a copy of this resolution and the Court Audit be forwarded to Dennis W. Donnelly, Director of Internal Audit, NYS Office of Court Administration, 98 Niver Street, Cohoes, New York 12047.

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

8. Report on Proposed Speed Reductions Plan for Eden from the Speed Limit Committee to the Town Board for their review

Dana Braun, Engineer for Wendel Duchscherer presented one (1) CD, suitable to re-produce, to the Town Board, which is the result of 7 months of meetings with the Speed Limit Committee. Dana requested that the Town Board review the information and add it to a future Town Board agenda for a presentation. The Speed Limit Committee will not be meeting until this item has been placed on the agenda.

9. Request for Special Use Permit – Dog Kennel – Lamoreaux/Baumgardner – 2712 Bauer Road

Supervisor Nellis read correspondence dated August 1, 2008 from Thomas R. Lamoreaux and Doreen Baumgardner regarding a Dog Kennel Permit for 2712 Bauer Road, Eden, New York.

MOTION was made by Supervisor Nellis stated that this request would be referred to the Eden Planning Board for their review and recommendation; seconded by Councilman Vacco; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

10. Allied Waste Contract

Supervisor Nellis read the following resolution:

**RESOLUTION
AUTHORZING RENEWAL OF THE TOWN OF EDEN'S
WASTE CONTRACT WITH ALLIED WASTE**

WHEREAS, the Town of Eden's current contract with Allied Waste for the collection, hauling and disposal of mixed municipal solid waste and the collection, hauling and processing of recyclables is due to expire January 1, 2009; and

WHEREAS, Section 36 of the current contract with Allied Waste allows the contract to be renewed at the sole option of the TOWN; and

WHEREAS, such renewals may be for up to three (3) additional one (1) years terms;

NOW, THEREFORE BE IT RESOLVED that the Town of Eden extend its current contract with Allied Waste for the collection, hauling and disposal of mixed municipal solid waste and specified items and materials and the collection, hauling and processing of recyclables for a one-year period commencing January 1, 2009; and

BE IT FURTHER RESOLVED that Supervisor Glenn R. Nellis be authorized to execute the one-year renewal agreement with Allied Waste.

MOTION was made by Councilwoman Pew to approve the resolution as presented with the addition to determine the rate and an update of the vendors insurance; seconded by Councilman Vacco; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

11. Draft Agreement on Inter-municipal Agreement on Highway Equipment

Supervisor Nellis requested this item be moved to "Old Business" to be reviewed and discussed at a future Town Board meeting.

12. Resolution – Declaring East Eden Fire Truck (1983 American LaFrance) Surplus Equipment & Authorization to Sell

Supervisor Nellis requested the approval to declare the 1983 American LaFrance Fire Truck (East Eden) be declared surplus equipment.

MOTION was made by Councilman Vacco to declare the 1983 American LaFrance Fire Truck from East Eden be declared surplus equipment; seconded by Councilman Krycia; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

13. Dog Census

Supervisor Nellis read correspondence from Ray Zabron, Dog Control Officer regarding a door-to-door dog census to be held in the Town of Eden starting September 30, 2008. Ray and Maureen Zabron are asking permission to license dogs, which is only permitted by Agriculture and Markets to Dog Control Officers during a dog census, and collect fees in the form of a check. An announcement would be published in the Hamburg Sun and the Eden Pennysaver.

MOTION was made by Supervisor Nellis to allow Ray and Maureen Zabron, Dog Control Officer and Secretary to conduct a door-to-door dog census, which would include licensing and collecting fees, in the form of a check; seconded by Councilman Vacco;

Before taking a vote on the motion the following discussion ensued:

Councilwoman Pew asked if other municipalities had conducted a dog census and Ray Zabron indicated that some towns in Erie County conduct a census every year, but usually at least every 3-4 years, mainly to keep a check on rabies information.

Councilwoman Pew requested the Town Board table this item for further review and discussion.

Supervisor's Report:

- Association of Erie County Governments will meet at O'Brien's Pub in Eden on Thursday, August 28, 2008 - all invited.
- Chris Collins, Erie County Executive will be attending a ribbon-cutting ceremony on Monday, August 18, 2008 at 11:00 at the new Industrial Park Roadway

August 13, 2008

NOTE: Councilwoman Pew read the following announcement:

Upon recommendation of legal counsel, the Town Board hereby resolves to withdraw the votes taken earlier this evening on Agenda Item No. 2, Special Use Permit – Verizon Wireless Telecommunications Tower Adjacent to Swartz Field, and to place that matter under Unfinished Business on the agenda for it's next meeting.

Hearing of Visitors:

Kerrie Inserra

Adjournment:

MOTION was made by Councilman Vacco 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 10:05 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk