

September 14, 2011

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
SEPTEMBER 14, 2011
7:30 P.M.**

TOWN BOARD MEMBERS PRESENT:

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

DEPARTMENT HEADS PRESENT:

Dave Johnson	-	Town Engineer
Ronald C. Maggs	-	Superintendent of Highways
Michael J. Felschow	-	Chief of Police
Jack Rigley	-	Eden Fire Chief
Andrew Breier	-	East Eden Fire Chief
Robert Pietrocarlo	-	Chairman Board of Assessors
Scott Henry	-	Code Enforcement Officer
Susan Brass	-	Recreation Director
Ray Zabron	-	Dog Control Officer

OTHERS PRESENT:

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

Call to Order:

Supervisor Nellis called the Regular Meeting of the Eden Town Board to order at 7:40 P.M.

Pledge of Allegiance:

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

Presentation:

Emily Brenner, 8865 Woodside gave a power point presentation regarding her recent project for her Gold Award, the highest award in Girl Scouting. Miss Brenner logged in several hours with her project to construct wooden ears of corn and enlist business owners and individuals to sponsor an ear of corn, which then were placed around the town. Miss Brenner appeared on Channel 2 morning show and was interviewed by Kevin O’Neil regarding her award.

Approval of Minutes:

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of August 10, 2011; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of August 10, 2011 as presented; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

There were none.

Budget Transfers/Amendments:

Supervisor Nellis read the following “Highway Budget Transfer:

Request to transfer \$10,008.84 for permits #10- #23 from Account D2770 to D5110.4.

MOTION was made by Councilman Vacco to approve the “Highway Budget Transfer” as presented; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis read the following “Budget Transfers/Amendments:

From Account	To Account	Reason for Amendment	Amount
A2680 Insurance Recovery	A3120.4 Police-Contractual	Insurance money rec'd to repair police car	\$975.70
A2680 Insurance Recovery	A3510.4 Control of Dogs – Contractual	Insurance money rec'd to repair dog control officer vehicle	\$3,529.22
A3120.2 Police – Equipment	A9785.6 Capital Lease Principal	Move budget for 2 nd pmt on Police Cars to Capital Lease Account as req'd by auditors	\$26,655.00
A3120.2 Police – Equipment	A9785.7 Capital Lease Interest	Move budget for 2 nd pmt on Police Cars to Capital Lease Account as req'd by auditors	\$1,773.00
A1990.4 Contingent Fund	A6989.4 Other Economic Development	Registration of National Preservation Conference held in Buffalo	\$250.00
SF3410.2 Fire – Equipment	SF3410.4 Fire – Contractual	Money Encumbered from East Eden Equip. to be used for repair of Fire Engine #3	\$10,350.00
SF2680 Fire – Insurance Recovery	SF3410.4 Fire – Contractual	Money rec'd by Page Harms Insurance Company to cover damage to East Eden Fire Engine #3	\$7,029.75
A2001 Park & Rec. Changes	A7310.4 Youth Program	Apply extra money rec'd from extra summer track participants towards their reg. Fee	\$595.00
A2089 Other Cult & Rec – Bicentennial	A7550.401 Celebrations - Bicentennial	Apply donations rec'd towards costs for Bi-Centennial	\$5,643.00
SF909 Fund Balance	SF3410.4 Fire – Contractual	Balance of Repairs to East Eden Engine #3 not covered by encumbered money or insurance	\$12,847.15

MOTION was made by Councilman Vacco 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.

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	474-546	\$65,742.06
Highway Dept. Fund	231-275	\$105,457.94

Fire Dept. Fund	166-184	\$14,146.35
Recreation Dept. Fund	110-120	\$3,976.68
Refuse and Garbage Fund	13	\$48,410.56
Street Lights Fund	21-23	\$4,139.16
Water Fund	23-24	\$5,079.58
Trust & Agency Fund	--	--
Capital Fund		
H3410.2	19-23	\$153,748.04
H8320.401	21-27	\$273,404.14
H8320.402	16-21	\$374,387.75
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 August 2011 were presented by Jack Rigley, Eden Fire Chief; Andrew Breier, East Eden Fire Chief; Michael Felschow, Eden Police Chief; Ray Zabron, Dog Control Officer; Ronald Maggs, Superintendent of Highways; Dave Johnson, 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.

Ron Maggs, Highway Superintendent reported that the 30-day permission referendum had expired with no inquiries and he is ready to begin the Town Hall and Library parking lot repair and paving.

Supervisor Nellis read the following letter, dated August 23, 2011, of thanks to the Eden Police Department:

“My wife, Kate, and I would like to thank two police officers of your police force for the professionalism, consideration and support.

Answering a neighborhood complaint on Clarksburg Road, Office DeVinny came to our house on Sunday evening and talked with us. He was supportive and listened to our concerns.

On Monday evening, August 22, Officer Bishop did a follow up visit. He was very helpful in explaining concerns of our neighbors, etc. and visited a nearby family.

In all, I was impressed with both officers’ expertise and professionalism. As an attending physician in the ER of the area’s level one trauma center, ECMC, I work with many officers from many police forces. Eden should be proud of the quality of its force.”

Signed; Sincerely, G. Richard Braen, M.D.

Jack Rigley, Eden Fire Chief requested permission for Eden and East Eden Fire Departments to apply jointly for the 2011 Assistance to Firefighters Grant (AFG) for \$157,000.00 for new 400 mhz radio system (a matching 5% of \$7,900.00 is required if grant is awarded).

MOTION was made by Councilwoman Pew to approve the Eden and East Fire Departments to apply jointly for the 2011 Assistance to Firefighters Grant for \$157,000.00 for new 400 mhz radio system with, if awarded, a matching 5% of \$7,900.00 from the town; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Note: Much discussion ensued between the Departments, the Town Board and Bob Stickney regarding how many radios would need replaced with the next 15-month period

and the cost. Mr. Stickney will make a chart with the information and present it to the Town Board in a timely matter.

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

Supervisor Nellis closed the Regular Meeting at 8:00 p.m. and opened the Public Hearing.

8:00 p.m.
Public Hearing
Proposed Local Law #3-2011
Amendment to Chapter 153
Peddler’s License

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

This proposed local law would amend Chapter 153 of the Code of the Town of Eden to require a criminal history inquires for applicants seeking a peddler’s license in the Town of Eden.

There were no comments.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the Public Hearing at 8:05 p.m.

MOTION was made by Councilman Krycia to close the Public Hearing and return to the Regular Meeting of the Town Board; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

New and Unfinished Business:

1. Sexual Harassment Policy

Supervisor Nellis read the following Sexual Harassment Policy that was recommended by the Selective Insurance and reviewed by William Trask, Town Attorney:

**PHYSICAL OR MENTAL ABUSE AND
SEXUAL ABUSE AND SEXUAL MOLESTATION
PREVENTION POLICY**

Town of Eden does not permit actual or threatened acts of physical or mental abuse, sexual abuse, sexual molestation or sexual misconduct (“prohibited conduct”) to occur in the workplace or at any activity sponsored by or related to it. In order to make this “zero-tolerance” policy clear to all employees, volunteers and staff members, we have adopted mandatory procedures that employees, volunteers, family members, board members, individuals and victims must follow when they reasonably suspect, learn of or witness prohibited conduct.

Abuse or molestation means each, every and all actual, threatened or alleged acts of physical or mental abuse, sexual abuse, sexual molestation or sexual misconduct performed by one person or by two or more persons acting together.

REPORTING PROCEDURE

All staff members who learn of or have a reasonable suspicion of prohibited conduct must immediately report it to Glenn R. Nellis, Town Supervisor, or the Town Supervisor in office at the time of the prohibited conduct. In the absence of Glenn R. Nellis, Town Supervisor, or the Town Supervisor in office at the time of the prohibited conduct, the

prohibited conduct should be immediately reported to the Deputy Town Supervisor. If the victim is an adult, abuse or neglect will be reported by this designee to the local or state police and/or Adult Protective Services (APS) Agency. If a child is the victim of abuse or neglect, the designee will report it to the local or state police and/or Child Abuse Agency. Appropriate family members of the victim must be notified immediately of suspected child abuse or neglect.

INVESTIGATION & FOLLOW-UP

We take allegations of prohibited conduct seriously. Once the allegation is reported, we will promptly, thoroughly and impartially initiate an investigation to determine whether there is a reasonable basis to believe that the prohibited conduct has occurred and that it was committed by the target(s) of the investigation. The investigation may be undertaken by an internal team comprised of fellow employees or we may hire an independent third party. We will cooperate fully with any investigation conducted by law enforcement or regulatory agencies and we may refer the complaint and the result of our investigation to those agencies. We reserve the right to place the target(s) of the investigation on an involuntary leave of absence or reassigning that person to responsibilities that do not involve personal contact with individuals or students. To the fullest extent possible, but consistent with our legal obligation to report suspected prohibited conduct to appropriate authorities, we will endeavor to keep the identity(ies) and the alleged victim(s) confidential.

If the investigation substantiates the allegation, our policy provides for disciplinary penalties, including but not limited to termination of the target's relationship with our organization.

RETALIATION PROHIBITED

We prohibit retaliation against anyone, including an employee, volunteer, board member, student or individual, who in good faith reports prohibited conduct. Retaliation against a participant in the investigation is also prohibited.

Anyone who retaliates against someone who has made a good faith allegation of prohibited conduct or intentionally provides false information to that effect will be subject to discipline, up to and including termination.

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

2. Resolution affirming audit of court financing

Supervisor Nellis read the following resolution:

RESOLUTION AFFIRMING AUDIT OF COURT FINANCING

By this Resolution, the Eden Town Board authorizes an audit of Eden Court Finances per State regulation. Said report of such an audit will be approved by the Town Board as well as become a public document.

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

3. Water Projects update

Supervisor Nellis read an update of the various water projects that will be posted on the Town of Eden's website and available at the Town Clerk's office during normal business hours.

4. Off-Road Drainage Committee Recommendations

As Chairperson of the Off-Road Drainage Committee, Ron Maggs recommended that the Town Board approve the following project that the committee has agreed upon:

1. Project 2011-04; Miscellaneous Mowing to be done by the Highway Department at a cost not to exceed \$3,500.

MOTION was made by Councilman Ventry to approve Project 2011-04 as presented; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

5. Approval of Specification for Waste Management – setting of bid opening

Supervisor Nellis requested approval of the Specifications for Waste Management with the removal of “Alternate Proposals”, page 6, which states “The Bidder may at his or her own discretion include an alternate proposal(s) for the Town Board’s consideration which he or she deems to be fore the best interest of the Town, such as but not limited to, Use of Waste Compactors, Reduction of Disposal Costs and/or Promoting town beautification”.

MOTION was made by Councilwoman Pew to approve the Specifications for Waste Management, with the removal of “Alternate Proposals”, as above-referenced; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis requested a bid opening date for October 7, 2011 at 11:00 a.m. in the Town Clerk’s Office for the Contract Documents for Collection, Hauling and Disposal of Mixed Municipal Solid Waste and Specified Items and Materials and Collection, Hauling and Processing of Recyclables.

MOTION was made by Councilwoman Pew to set the bid opening date for October 7, 2011 at 11:00 a.m. in the Town Clerk’s Office for the Contract Documents for Collection, Hauling and Disposal of Mixed Municipal solid Waste and Specified Items and Material and Collection, Hauling and Processing of Recyclables; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

6. Recommendation by Recreation Department of sale of surplus equipment – Diamond Grooming Machine

Susan Brass, Recreation Direction along with the Eden Recreation Advisory Board is recommending that the following item(s) be declared “Surplus” and that the Town Board authorize the Recreation Department to advertise to receive bids.

1997	John Deere	Diamond Grooming Machine
------	------------	--------------------------

MOTION was made by Councilwoman Pew to declare the 1997 John Deere Diamond Grooming Machine “Surplus” equipment and authorize the Recreation Department to advertise to receive bids as recommended by Susan Brass, Recreation Director and the Eden Recreation Advisory Board; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

7. Approval of rate adjustment for Recreation position

Susan Brass, Recreation Director requested a rate adjustment of 5% to increase the pay rate of Chris Nellis, Lifeguard to \$21.00 per hour.

MOTION was made by Councilwoman Pew to approve the 5% increase for Chris Nellis, Lifeguard to \$21.00 per hour; seconded by Councilman Krycia; “Ayes”; Pew, Krycia, Vacco; Ventry; Opposed? – None; Abstain? – Nellis; Motion carried.

8. Highway Department – request of funds transfer

Supervisor Nellis read the following resolution:

NOTICE IS HEREBY GIVEN OF ADOPTION OF THE FOLLOWING RESOLUTION:

RESOLUTION AUTHORIZING SUPERVISOR GLENN R. NELLIS TO EXPEND FUNDS FROM THE GENERAL MAINTENANCE RESERVE FUND OF THE TOWN OF EDEN, SUBJECT TO PERMISSIVE REFERENDUM.

The Town Board of the Town of Eden, duly convened in regular session, does hereby resolve pursuant to the provisions of Section 6-c of the General Municipal Law of the State of New York that the Town Supervisor of the Town of Eden be and is hereby authorized and directed to transfer from the General Maintenance Reserve Fund of the Town of Eden to the Central Garage Contractual Line, Account Number A1640.4, a sum not to exceed \$20,000.00 from said Reserve Fund for the purpose of making highway facility repairs/improvements (including but not limited to the Salt Barn) at the Town of Eden Highway Department.

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

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

9. Approval of Proposed Local Law #2-2011

Supervisor Nellis read the following resolution:

**TOWN BOARD OF THE TOWN OF EDEN
STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)
Negative Declaration (September 14, 2011)**

WHEREAS, the Eden Town Board is considering action relative to the adoption of Proposed Local Law No. 2-2011, amending Section 225.19 of the Eden Zoning Law changing the applicable bulk regulations for certain uses in a Planned Industrial (PI) District (hereinafter “Action”); and

WHEREAS, the Eden Town Board previously determined that the proposed Action is a Type 1 action and declared itself Lead Agency; and

WHEREAS, the Board made a referral of the proposed Action to the Erie County Department of Environment and Planning pursuant to General Municipal Law Section 239-m; and

NOW, THEREFORE, be it resolved by the Board that:

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

REASONS SUPPORTING THE NEGATIVE DECLARATION:

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

The Action will not create any adverse change in the existing air quality, water quality or noise levels, nor in solid waste production, nor potential for erosion, nor promote flooding or drainage problems.

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

The Action will not adversely affect agricultural, archeological, historical, natural, or cultural resources. Long term, the Action will improve the ability to address such concerns through establishing a more reasonable scheme for regulating the location and operation of the uses covered under this amended law.

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

No plant or animal life will be adversely affected by the Action.

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

The Action is not inconsistent 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 Action will not induce any significant or adverse growth or subsequent development.

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

The Action will not have any significant adverse long term, short term, cumulative, or other environmental effects.

7. Critical Environmental Area:

The Action will not have significant impact on any Critical Environmental Area as designated in 6NYCRR, subdivision 617.14(g).

8. Public Health and Safety:

The Action will have no immediate impact upon these concerns.

6NYCRR § 617.1 states that it is the intention of the SEQR regulation “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 SEQRA that environmental factors be the sole consideration in decision making.”

This Board has considered all of the evidence submitted and has determined that the Action will not have a significant adverse environmental impact on the community.

MOTION was made by Supervisor Nellis to approve State Environmental Quality Review Act (SEQRA), Negative Declaration as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis requested approval of Proposed Local Law #2-2011, Section 225.19 PI – Planned Industrial District. B. Uses by special permit of the Town board. Amend (10) to read: **New or used automobile, farm equipment, boat and trailer sales, rental, repair and services. Use Group b.**

MOTION was made by Councilman Krycia to approve Proposed Local Law #2-2011, which will be filed with the Office of the Secretary of State as Local Law #2-2011; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

10. Set public hearing regarding 2% tax cap.

Supervisor Nellis read the following resolution:

RESOLUTION OF THE EDEN TOWN BOARD

RESOLVED, that a public hearing will be held on October 12, 2011 at 8:00 p.m. for the purposes of considering the adoption of proposed Local Law No. 4-2011 which would authorize the override of the property tax cap established by General Municipal Law Section 3-c for the 2012 fiscal year.

MOTION was made by Supervisor Nellis to approve the resolution as presented and set the public hearing for October 12, 2011 at 8:00 p.m.; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

11. Permissive Referendum for Town Hall Boiler

Supervisor Nellis read the following resolution:

NOTICE IS HEREBY GIVEN OF ADOPTION OF THE FOLLOWING RESOLUTION:

RESOLUTION AUTHORIZAING SUPERVISOR GLENN R. NELLIS TO EXPEND FUNDS FROM THE GENERAL MAINTENANCE RESERVE FUND OF THE TOWN OF EDEN, SUBJECT TO PERMISSIVE REFERENDUM.

The Town Board of the Town of Eden, duly convened in regular session, does hereby resolve pursuant to the provisions of Section 6-c of the General Municipal Law of the State of New York that the Town Supervisor of the Town of Eden is authorized to expend a sum not to exceed \$18,000.00 from the General Maintenance Reserve Fund for the purpose of replacing the boiler at the Eden Town Hall.

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

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

Supervisor Nellis read the following of bids received to replace the boiler:

McAllister Plumbing	\$16,200.00
Benzinger Plumbing	\$26,145.00
John W. Danforth Company	\$42,980.00

MOTION was made by Councilman Vacco to accept the low bid from McAllister Plumbing for \$16,200.00, not to exceed \$18,000.00 to replace the boiler in the Town Hall basement, contingent on funds after the 30-day permissive referendum and subject to prevailing rate; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor’s Report:

- Scrap Metal and Tire Drop-off, Saturday, October 1, 2011, 9:00 a.m. to 1:00 p.m. at the Eden Highway Department
- Notice of road closure – Eden-Evans Center Road between Route 20 and Versailles Plank Road will be closed for complete reconstruction from September 8 – October 21 (or until complete).

Hearing of Visitors:

Robert Heferle, 2370 March Road, posted 55 mph speed limit signs.
Bob Stickney, 2718 Lourdes Drive, street lights out around town.

September 14, 2011

Adjournment:

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

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 9:25 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 11:30 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk