

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
MARCH 8, 2000
7:30 P.M.**

TOWN BOARD MEMBERS PRESENT:

GLENN R. NELLIS - SUPERVISOR
EDWARD C. KRYCIA, JR. - COUNCILMAN (Deputy Supervisor)
MARY LOU PEW - COUNCILWOMAN
VINCENT V. VACCO - COUNCILMAN
GEORGE F. ZITTEL - COUNCILMAN

DEPARTMENT HEADS PRESENT:

Andrew C. Reilly of Wendel - Town Engineer
Ronald C. Maggs - Superintendent of Highways
Patrick M. Howard - Chief of Police
Paul Shephard - Eden Emergency Squad
William H. Laing - Eden Fire Chief (*Absent*)
Kevin R. Schoenthal - East Eden Fire Chief
Susan Brass - Recreation Director
R.Ferris Randall - Chairman Board of Assessors (*Absent*)
Scott T. Henry - Zoning Code Enforcement Officer

OTHERS PRESENT:

William Trask - Town Attorney
Mary Jo Hultquist - Town Clerk
DianaRae Walker - Deputy Town Clerk
Anna Knack - Administrative Assistant

Call to Order:

Supervisor Nellis called the Regular Meeting of the Eden Town Board to order at 7:35 P.M.

Pledge of Allegiance:

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

Supervisor Nellis welcomed everyone to the meeting and briefly explained to the students in the audience the type of meeting being conducted and if they had any questions they could raise their hands.

Supervisor Nellis requested to add five items to the "Agenda" they were as follows:

- 6.) Resolution for Franchise Fee
 - 7.) Resolution for purchase of a Generator and Light Tower
 - 8.) Public Hearing regarding issue of signs on houses
- Supervisor's Report
Executive Session

Approval of Minutes:

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of February 9, 2000. There were none.

MOTION was made by Councilman Zittel to approve the Town Board Minutes of February 9, 2000 as presented; seconded by Councilman Vacco; All – "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis then asked if there were any additions or corrections to the Town Board Minutes of February 23, 2000. There were none.

MOTION was made by Councilwoman Pew to approve the Town Board Minutes of February 23, 2000 as presented; seconded by Councilman Zittel; All – "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

There were none.

Budget Transfers:

Supervisor Nellis stated that there was one "Budget Transfer" from account "A599" to account "A3150.4" for the 1999 Veterinary bill in the amount of \$3,000.00 to Dr. Hall.

MOTION was made by Councilman Vacco to approve the budget transfer from account "A599" to account "A3150.4" in the amount of \$3,000.00 for the 1999 Veterinary bill to Dr. Hall; seconded by Councilman Krycia; All – "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Audit Bills:

Supervisor Nellis asked if there were any questions on the “Audit of Bills” which are on file in the Town Clerk’s office. There were none.

MARCH 2000

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	79 – 153	\$43,977.66
Highway Dept. Fund	38 – 62	\$40,583.87
Fire Dept. Fund	30 – 51	\$10,657.85
Recreation Dept. Fund	9 – 18	\$2,081.77
Refuse and Garbage Fund	-	\$0
Street Lights Fund	3 – 4	\$4,893.83
Water Fund	4 – 6	\$6,000.08
Trust & Agency Fund	-	\$0
Capital Fund	-	\$0
Community Development	-	\$0

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

Departmental Reports:

Department reports for the month of March 2000 were presented by Michael Jacobs for William Laing, Eden Fire Chief; Paul Shephard, Eden Emergency Squad; Kevin Schoenthal, East Eden Fire Chief; Patrick Howard, Eden Police Chief; Ronald Maggs, Superintendent of Highways; Andrew Reilly, Town Engineer; William Trask, Town Attorney; Mary Jo Hultquist, Town Clerk; Supervisor Nellis for Scott Henry, Zoning Code Enforcement Officer; and Susan Brass, Recreation Director. All reports are on file in the Town Clerk’s office.

Michael Jacobs requested the acquisition of a house trailer to be moved to Town property on New Jerusalem Road where training is currently held. The house trailer is 40’ X 60’ and would be used as a training center. Councilman Vacco asked how the trailer would be moved. Mr. Jacobs stated that the department has people who will move the trailer at no cost.

MOTION was made by Councilman Krycia to acquire the house trailer at no cost to be used for training; seconded by Councilman Vacco; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis stated that a voucher request was received from Paul Shephard, Eden Emergency Squad to spend \$1,582.10 from the public safety account and that \$1,176.00 was encumbered from 1999 to cover the request and any other bills for the year.

Paul Shephard read the names of the nine EMT's that completed EMT training.

MOTION was made by Councilman Zittel to express the Town Board's "Congratulations" to the nine new EMT's; Julie Boedo, John Sheffer, Mary Dingman, Deborah Barton, Meta Graesser, Ken Graesser, Diane Wiltberger, Ray McGinty and Michael McCarthy; seconded by Councilman Vacco; All – "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Ronald Maggs, Superintendent of Highways reported that only one bid was received for the "Fuel Bid" and recommended that it be awarded to "Page-Harms Oil Co.". Mr. Maggs explained that due to the high cost of fuel the prices are as follows; unleaded \$1.05, diesel fuel \$0.97 and kerosene \$1.04.

MOTION was made by Councilman Vacco to award the "Fuel Bid" to "Page-Harms Oil Co." as recommended by the Superintendent of Highways, Ronald Maggs; seconded by Councilman Krycia; All – "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Mr. Maggs also reported that only one bid was received for the "Gradall Bid" and recommended that it be awarded to "L.B. Smith, Inc." for a 1998 Gradall at \$126,863.00 with the trade-in of the 1987 Gradall at \$21,000.00 for a total cost with trade \$105,863.00. Mr. Maggs also noted to purchase a 1999 or newer Gradall the cost would be \$173,000.00.

MOTION was made by Councilman Zittel to award the "Gradall Bid" to "L.B. Smith Inc." for a total cost with trade \$105,863.00 subject to a permissive referendum; seconded by Councilman Krycia; All – "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Andrew Reilly, Town Engineer reported that the Oakhill Subdivision Phase 3, the installation of the water line has been completed and tested.

Mr. Reilly also reported that the last "charrett" was held and a draft is being worked on for the Master Plan. The draft would be submitted to the Master Plan Committee for review and Mr. Reilly would be meeting with other boards and committees within the town talking about what they told Mr. Reilly and how it has been addressed in the plan. When the Town Board feels comfortable with the Master Plan, then it can be brought to a public hearing. Mr. Reilly felt that the process would take at least 60 days to get through.

Supervisor Nellis felt that the Master Plan is on schedule when it was started in August 1999.

Lastly Mr. Reilly noted that the Drainage Committee as part of "Project Impact" is looking into to having drainage improvements done within the town with the possible assistance of the National Guard. One of the requirements of the National Guard is that permits are in place for the work. The Drainage Committee is looking into work that will not cost the Town money at this time.

Scott Henry also reported that he and Anne Knack have been working to maintain the records and update them for the Town of Eden for the "Census 2000". Mr. Henry's roll in the census is "New Construction Program Coordinator" he has been going through and updating the

address list and maps to reflect the new construction that has taken place since the last census. Supervisor Nellis expressed his support that what Mr. Henry is doing is important for the Town of Eden to develop the Town's 2000 census in terms of any grant formulas of Federal Government Agencies.

Lastly Mr. Henry reported that the Insurance Service Organization is going to New York State municipalities and is giving an extensive questionnaire that would allow them to assess the codes in effect and how effectively they are being enforced. They will rank the community on a scale of one to ten and then will provide the information to insurance organizations and underwriters for more up-to-date codes and better enforcements, which they feel, will make for safer buildings and lower insurance costs. The underwriters and insurances will be looking at the rate to calculate insurance rates. Mr. Henry stated that this is a statewide program.

After Susan Brass, Recreation Director finished her report Councilman Zittel asked if there were any updates on Gorcica Field. Mrs. Brass stated that a meeting would be taking place with Mr. & Mrs. Gorcica to discuss future plans and the sign that will be erected.

Councilman Vacco asked if there were any plans to extend the parking lot and if there have been any drainage problems. James Brass, Chairman of the Recreation Board stated that there is room for parking lot expansion but the funding wasn't there to do it last year, and that since the grass has taken there have been no problems with drainage. Mr. Brass also reported that the sign would be donated.

New and Unfinished Business:

1.) Water District #4

Supervisor Nellis turned to John Reid of R & D Engineering who reported that the archaeology study has been completed and there were "no findings" and the area has been cleared. A report will be issued to the State on March 9, 2000 and within a week a declaration would be sent clearing the area and that will be sent to Rural Development to complete the application. Mr. Reid also asked that residents send letters to their Congressmen and Senators inquiring about the application for Water District #4 and state any water problems they have had and may experience this year with the water table being down.

Councilman Zittel also stated that he has discussed with the Fire Department and Mr. Reid about applying for a variance for Water District #4 regarding the spacing of the fire hydrants. Councilman Zittel stated the basis for spacing the fire hydrants out is the updated fire equipment that has been purchased over the years which allows a distance of 1000 feet of hose to support the variance. Councilman Zittel stated that by applying for the variance this could enable the town to use tax dollars more wisely in the town's water districts for fire hydrants.

Wilbert Smutz of 3094 East church Street, stated that the distance from your house to a hydrant rates homeowner's insurance. Mr. Reid explained that the town is taking that into consideration. Councilman Zittel noted that for the Water District #3, Derby Road, the town is paying \$4,500.00 a year just for the fire hydrants in Water District #3 and he felt that it should be looked at and discussed so that the use of the town's fire dollars are used wisely.

William Trask, Town Attorney stated that the supplemental requests from the Comptroller's office have been sent in with information provided the Mr. Reid's office and the Town Clerk. The next step is to get verification from the Comptroller's office that they have a completed application with the supplemental submission and then to have it go under a regular review.

Mr. Reid noted that discussion should begin soon with the Erie County Water Authority regarding the lease management agreement for Water District #4.

2.) Community Oriented Policing Services (Informational)

Supervisor Nellis stated that the U.S. Department of Justice has sent a fax pertaining to the Community Oriented Policing Services hiring grant that is set to expire March 31, 2000. The Office of Community Oriented Policing Services has approved the extension of 18-months and the new expiration date is September 30, 2001

3.) Appointments

Supervisor Nellis stated that there was one reappointment for the five-year term to the Assessment Board of Review. John Bauer, Chairman of the Board recommended that John Hains of Eckhardt Road be reappointed effective October 1, 1999. Supervisor Nellis requested the approval of Mr. Hains' reappointment based on Mr. Bauer's recommendation.

MOTION was made by Councilman Zittel to reappoint John Hains for a five-year term to the Assessment Board of Review as recommended by the Chairman of the Board John Bauer; seconded by Councilwoman Pew; All – "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

4.) Resolution on State Highway Support

Supervisor Nellis read the following **RESOLUTION**:

RESOLUTION ASKING FOR SIGNIFICANT INCREASE IN STATE BUDGET FUNDING FOR ROADS AND BRIDGES

WHEREAS, the Governor's proposed 2000-2001 State budget has no increase Proposed for five years in the already under-funded road and bridge Appropriations; and
WHEREAS, the road and bridge programs provide essential road repair funding for Erie County and its local governments; and
WHEREAS, without adequate road and bridge funding, planned road and bridge Reconstruction will have to be deferred and in many cases canceled
Altogether,

NOW, THEREFORE BE IT RESOLVED, that the Eden Town Board requests that the New York State Senate & Assembly desperately work to increase annual Road and bridge appropriations in the State Budget; and
BE IT FURTHER RESOLVED that the Eden Town Clerk send a certified copy of this Resolution to the Governor, Western New York State Delegation of Assemblymen and Senators, and all Town Supervisors and Village Mayors in Erie County.

MOTION was made by Councilman Krycia to approve the adoption of the resolution read by Supervisor Nellis; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried

5.) Resolution on State Highway Support

Supervisor Nellis read the following **RESOLUTION**:

**TOWN OF EDEN RESOLUTION
ON LIFTING OF TOLL BARIERS WITHIN
THE COMMUTING RANGE OF BUFFALO, NY**

WHEREAS, the Town of Eden joined with the Town of Hamburg in 1998 to call for a study of the removal of the NYS Thruway Authority toll barriers at Lackawanna, Blasdell, Hamburg and Eden/Evans, and eventually called for the removal of all tolls from within the commuting range of Buffalo;
and
WHEREAS, this study has been agreed to by the NYS Thruway Authority and the Greater Buffalo Niagara Regional Transportation Committee with the assistance of NYS Senator Dale Volker, and is expected to be completed within the next two months; and
WHEREAS, the recent announcement that the NYS Thruway Authority was imposing an increase in the amount of tolls paid by motorists on the Thruway System, since withdrawn, was poor timing at best and unconscionable at worst, given that all tolls were originally due to expire four years ago;
NOW, THEREFORE BE IT RESOLVED, that the Town of Eden oppose the increase in Thruway tolls, and call on the Governor of New York State and the NYS Thruway Authority Chairman to rescind any effort to increase tolls, and urges the expedited completion of study to remove toll barriers from within the commuting range of Buffalo. Certified copies of this Resolution are to be sent to the Chairman of the NYS Thruway Authority, Governor Pataki, the WNY State Delegation of Assemblymen and Senators, the Erie County Executive and Chairman of the County Legislature, and the Mayors and City Council Presidents of Buffalo and Lackawanna, and the Supervisors of West Seneca, Eden, Boston,

Hamburg, Orchard Park, Grand Island and the Mayors of the Villages of Blasdell and Hamburg.

MOTION was made by Councilwoman Pew to approve the adoption of the lifting of toll barriers within the commuting range of Buffalo, New York as read by Supervisor Nellis; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried

6.) Resolution on Franchise Fee

Supervisor Nellis read the following **RESOLUTION**:

RESOLUTION CALLING FOR THE REPEAL OF ARTICLE 6 OF SECTION 626 OF THE REAL PROPERTY TAX LAW – IN SUPPORT OF THE RESOLUTION FROM THE ASSOCIATION OF ERIE COUNTY GOVERNMENTS REGARDING SPECIAL FRANCHISE ASSESSMENTS.

WHEREAS, the New York State Office of Real Property Service sets the Special Franchise Assessments and the New York State Board of Real Property Service approves all Special Franchise Assessments across the State of New York; and

WHEREAS, the 25 Towns, 16 Villages and 3 Cities of the Association of Erie County Governments receive their cable television franchise fee payments with The amount of such fee deducted from the special franchise assessment, in Essence receiving tax free status from our communities; and

WHEREAS, pursuant to Article 6 of Section 626 of the New York State Real Property Tax Law (RPTL), this credit is legal; and

WHEREAS, the Eden Town Board wishes to support the resolution of the Association Of Erie County Governments calling for the repeal of Article 6 of Section 626 of the New York State Real Property Tax Law; now, therefore be in

RESOLVED, that the Town Board of the Town of Eden goes on record opposing the Injustice. Although our municipality has the ability to negotiate a Franchise fee for the purpose of generating income for our community, all Cable companies and utilities have the ability to avoid their tax liability by Deducting it from the franchise fee; and be it further

RESOLVED, that the subscribers and taxpayers should not have to continue with this Unfairness; and be if further

RESOLVED, that the New York State Senate and Assembly should make this resolution
A top priority on their agenda and repeal Article 6 of Section 626 of the
Real Property Tax Law. Such repeal will alleviate this inequity for our
Constituents and help create some fairness for all taxpayers; and be it
Further

RESOLVED, that a certified copy of this resolution be sent to Governor George Pataki,
The local New York State Senators, New York State Assemblymen,
County Executive Joel Giambra, Erie County Legislators, Association of
Erie County Governments membership and the Association of Towns
(Kevin Crawford).

MOTION was made by Councilman Zittel to approve the adoption of the Resolution as read by
Supervisor Nellis; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? –
None; Motion carried.

7.) Resolution for Emergency Squad Light Tower

Councilman Krycia moved to adopt the following **RESOLUTION**:

**RESOLUTION AUTHORIZING SUPERVISOR GLENN R. NELLIS TO EXPEND
FUNDS FROM THE EMERGENCY SQUAD CAPITAL (EQUIPMENT) RESERVE FUND
OF THE TOWN OF EDEN, SUBJECT TO PERMISSIVE REFERENDUM.**

The governing body 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 Emergency Squad Capital (Equipment) Reserve Fund to the
Ambulance Contractual Account A4540.4 the sum of \$10,000.00 for the purchase of one
Generator and Light Tower.

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

BY ORDER OF THE GOVERNING BODY OF THE TOWN OF EDEN, NEW YORK.

Seconded by Councilman Zittel.

Discussion ensued regarding the purpose of the light tower and generator. Paul
Shephard, Eden Emergency Squad described the use of the light tower and generator, they would
be on the rescue truck and used at accidents scenes, scenes of fire and any other emergency
scenes. The light tower will be able to illuminate an area of up to a ¼ of a mile and the generator
would be able to support other equipment on the trucks.

Councilman Zittel stated that the light tower was discussed in the budget. Supervisor Nellis
summarized that the actual cost is in excess of \$20,000.00 and the Emergency Squad has asked
the town for \$10,000.00 of the total amount and the Emergency Squad would come up with the

remainder of the amount. The light tower could be reinstalled on a new piece of equipment if ever necessary. Following the discussion the Resolution was put to vote.

All – “Ayes”; Opposed? – None; Abstain? – None; the **RESOLUTION** was adopted.

Supervisor Nellis stated that the specifications have been received and reviewed by the Town Attorney, William Trask and sent back to with changes to the Eden Emergency Squad. Mr. Shephard reported that the changes have been sent back and should be received Tuesday and with the Town Attorney’s approval, Mr. Shephard requested that March 16, 2000 a legal notice be published in the Hamburg Sun regarding a bid opening date of March 31, 2000 at 4:00 P.M. in the Town Clerk’s office.

MOTION was made by Councilman Zittel to approve the bid opening of March 31, 2000 at 4:00 P.M. in the Town Clerk’s office for the purchase of a Generator and Light Tower for the Eden Emergency Squad; seconded by Councilwoman Pew; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

8.) Public Hearing – issue of signs on houses

Supervisor Nellis read a letter received from the Members of the Eden Emergency Services Units, which is on file in the Town Clerk’s office, requesting that the Town Board consider enacting a Local Law requiring all private dwellings and businesses to affix numbers on their structures. This would aid the Eden Emergency Services Units in responding to a location should a need arise. Enclosed with the letter was a copy of the Town of Evans Law that has been sent to the Town Attorney, William Trask for review and draft of the Local Law for the Town of Eden. Supervisor Nellis suggested that a public hearing be held April 12, 2000 at 8:00 P.M. for purposes of input on the local law. Copies would be available in the Town Clerk’s office.

MOTION was made by Supervisor Nellis to schedule a public hearing April 12, 2000 at 8:00 P.M. on the question of placing numbers on private dwellings and businesses in the Town; seconded by Councilman Zittel; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor’s Report:

Supervisor Nellis reported that on February 29, 2000 the 15th Annual Award Reception held in Springville for school and student artwork took place. Supervisor Nellis stated that thirty-three schools participated and there were three schools that had five winners. The Eden Town Board sponsored one of them and the five recipients from Eden Central School were; Valerie McClean who won \$250.00 and was in the top ten twice with ads for the Town Board and Don Robinson, Julie Smolinski for Eden Agency, Katie Achtyl for Kazoo Factory and Wendy Rose for Eden Collision. Eden was the only school in Erie County that received five awards.

Supervisor Nellis continued his report on the Flood Mitigation Study, which was sent out and in excess of 300 questionnaires were received back and that they would be forwarded to our consultant, U.R.S. Greiner, in conjunction with the Drainage Committee. The deadline for citizens to return the questionnaire is March 15, 2000.

Supervisor Nellis also stated that another ad would be placed by the Town of Eden for the U.S. Census Bureau to encourage residents and business to fill out the 2000 Census. Supervisor Nellis stated that 81% responded to the 1990 Census. We hope to raise that figure to 85% this Census Year.

Supervisor Nellis also reported that effective March 1, 2000 Peter Blidy will take over as Chairman of the 2000 Eden Corn Festival. Supervisor Nellis then thanked William Faircloth for all his hard work over the years as Chairman.

Supervisor Nellis then referred to a letter received from the Department of Transportation dated February 15, 2000 regarding the traffic study to reduce the speed limit on Jennings Road in the Town of Eden. The study showed that 85% of traffic drives at 55 MPH and 60% between 44 to 53 MPH, and the request to reduce the speed limit on Jennings Road was denied. Supervisor Nellis stated that copies of study are available in the Supervisor's office and Town Clerk's office.

Supervisor Nellis noted that he would be the keynote speaker at the Eden Chamber of Commerce dinner being held March 16, 2000 at 7:00 P.M. at the legion.

Councilwoman Pew announced that the Town of Eden website is up and running again and that she would continue to maintain the site for the Town.

Chief Howard reported that the \$2,200.00 expenditure on the audit of bills for camera equipment for use by the Police Department, that was donated by the VFW on March Road, Chief Howard also thanked Jim Brass for \$1,000.00 additional equipment.

Lastly Chief Howard reported that Eden was one of the first Towns in Erie County to be involved with D.A.R.E. and class funding was received for 170 students who graduated from the Reserved Police and drug free school committee who donated about \$1,000.00 in gifts for the graduating students.

Supervisor Nellis stated that thank you letters would be sent to the VFW and Jim Brass for their donations.

Lastly Supervisor Nellis reported that he had received notification from the Supervisor in the Town of Boston indicating that the State Attorney General would be in Buffalo this week looking at Blue Cross & Blue Shield and their cut back of services. Supervisor Nellis asked that if anyone knows of anyone that has had diminishing services due to changes made by Blue Cross & Blue Shield to call the Supervisor's office and/or the State Attorney General's office.

Hearing of Visitors:

Wilbert Smutz of 3094 East Church Street
Ruth Szalasny of 3048 Belknap Road

Adjournment:

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

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

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board at 9:30 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk