

**MINUTES**

**REGULAR MEETING – EDEN TOWN BOARD  
2795 EAST CHURCH STREET  
EDEN, NEW YORK  
AUGUST 8, 2001  
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
Kevin R. Schoenthal	-	East Eden Fire Chief
Susan Brass	-	Recreation Director
R.Ferris Randall	-	Chairman Board of Assessors ( <i>Absent</i> )
Scott T. Henry	-	Zoning Code Enforcement Officer

**OTHERS PRESENT:**

William Trask	-	Town Attorney
Mary Jo Hultquist	-	Town Clerk
DianaRae Walker	-	Deputy Town Clerk

**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.

Due to the hot weather, Supervisor Nellis requested that Departmental Reports be suspended and that only items requiring action would be brought forth. Copies of the Departmental Reports are on file in the Town Clerk's office.

**MOTION** was made by Councilman Zittel to suspend the presentation of Departmental Reports and excuse the Department Heads from the meeting; seconded by Councilwoman Pew; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

### **Approval of Minutes:**

Supervisor Nellis asked if there were any additions, corrections or comments regarding the Town Board Minutes of July 11, 2001. There were none.

**MOTION** was made by Councilman Krycia to approve the Town Board Minutes of July 11, 2001 as presented; seconded by Councilman Zittel; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis then asked if there were any additions, corrections or comments regarding the Town Board Minutes of July 25, 2001. There were none.

**MOTION** was made by Councilman Zittel to approve the Town Board Minutes of July 25, 2001 as presented; seconded by Councilwoman Pew; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

### **Petitions:**

Phil Fintak of 2124 Hemlock Road and Christine Guadagno of 2129 Hemlock Road presented the Town Board a petition of signatures from residents on Hemlock Road requesting public water. Supervisor Nellis reviewed the petition and clarified with Mr. Fintak that six residents were not sure or not home and eleven said “no”.

### **Budget Amendments:**

Supervisor Nellis stated that there were three Budget Amendments from account A2770 to A8090.4 for refund from Land Trust Alliance for over payment in the amount of \$10.00, from account A2070 to A7140.4 to apply Tennessee Gas donation to Gorcica Field in the amount of \$500.00 and from account T37 to A7140.4 for park deposits for Gorcica Field work, mainly for the concrete and materials for the work in the amount of \$1,914.87.

**MOTION** was made by Councilman Vacco to approve the Budget Amendments as read by Supervisor Nellis; seconded by Councilman Krycia; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Audit Bills:**

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

**AUGUST 2001**

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	420 – 466	\$40,962.55
Highway Dept. Fund	217 – 238	\$108,829.62
Fire Dept. Fund	148 – 175	\$7,807.43
Recreation Dept. Fund	104 – 125	\$5,767.65
Refuse and Garbage Fund	20 – 21	\$32,819.46
Street Lights Fund	11 – 12	\$3,633.96
Water Fund	12	\$3,807.30
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:**

Ronald Maggs, Superintendent of Highways requested a budget transfer from account A1620.4 to D5110.4 in the amount of \$5,000.00 for the Town Hall Parking Lot Drainage System and from account A1620.4 to D5110.4 in the amount of \$31,000.00 for the Town Hall Parking Lot Paving Project.

**MOTION** was made by Councilman Zittel to approve the Budget Transfers as stated by Ronald Maggs, Superintendent of Highways; seconded by Councilman Krycia. Before being put to vote there was a brief discussion thanking the Highway Department for a job well done on the Town Hall parking lot. Mr. Maggs also noted that \$35,000.00 was set aside for the project and that there is \$4,000.00 left that may be used for the Library Parking Lot which possibly could be done in the fall by the Highway Department. The Motion was then put to vote; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Mary Jo Hultquist, Town Clerk requested Polling Place Consolidation for the following polling locations for Primary Day, September 11, 2001:  
District 1 and District 6 - East Eden Fire Hall

District 2 and District 7 - St. John's United Church  
District 4 and District 5 - Eden Town Hall

Mrs. Hultquist also noted that District 3 at Eden Central School couldn't be consolidated.

**MOTION** was made by Councilman Zittel to approve the Polling Place Consolidation as stated by Mary Jo Hultquist, Town Clerk; seconded by Councilman Vacco; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Susan Brass, Recreation Director announced that with requests made by several residents that the town pool will remain open until August 17, 2001 from 1:00PM to 5:00PM. There is staff to cover those hours.

Councilman Zittel then thanked the Recreation Department on the beautiful flowers around the town and Councilwoman Pew expressed gratitude on the wonderful job that was done on Goricca Field with the trees.

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

#### 1.) Water Projects

John Reid of R & D Engineering stated that new plans for the water mains has been received and would be reviewed. Mr. Reid met with property owners regarding the sites, which were identified for the pump station and tank

Mr. Reid also reported that there would be no name change for Water District No. 4 as previously stated.

Mr. Reid also reported there was a request for a potential use of the water tank location for an antennae for a broadcast tower.

William Trask, Town Attorney stated that he had with him tonight an Order calling for a public hearing for Extension Water District No. 4A which is the Gary Drive extension.

Councilman Krycia moved and read the following Resolution:

Supervisor Nellis then reviewed the Town of Eden “Potential Watermain Extensions” that states the possible cost for the four area extensions which include Route 62 – South from Sandrock Road to Railroad overpass, Ferrier Road – from Water District No. 3 to Shadagee Road, New Jerusalem Road – from Water District west to Town Line and Hemlock Road – from existing Water District to Eden-Evans Center Road. A copy of the report is on file in the Town Clerk’s office.

Supervisor Nellis requested that R & D Engineering conduct a “feasibility study” at a cost of up to \$2,500.00 to assess the four areas for water and possibly put into a grant to Rural Development.

**MOTION** was made by Councilman Zittel to proceed with a “feasibility study” of the four areas as stated by Supervisor Nellis at a cost up to \$2,500.00; seconded by Councilwoman Pew; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

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

Supervisor Nellis closed the Regular Meeting of the Eden Town Board at 8:08P.M.

**MOTION** was made by Councilman Vacco to open the public hearing to consider establishing Drainage District in Weller Tract II, Phase 2 Subdivision; seconded by Councilman Krycia; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis opened the public hearing at 8:08 P.M

**8:00 P.M.  
Public Hearing**

**To Consider establishing a Drainage District in Weller Tract II, Phase 2 Subdivision**

Supervisor Nellis stated that a “Petition for Establishing Drainage District for Weller Tract II, Phase 2 was received from Donald Schreiber, Jr., Vice-President of Schreiber & Winkelman, Inc. Supervisor Nellis noted that Mr. Schreiber is currently the sole owner of the properties involved. The Drainage Committee met on August 3, 2001, and after reviewing information on the Drainage District made the following recommendations to the Town Board:

- Drainage Basin is to be maintained by the Highway Department and charged to the District.
- Regarding the drainage easements on individual homeowner’s land that the District is allowed to maintain these drainage easements in the event that the individual homeowners fail to properly maintain said easements.
- In the event the District has to maintain individual homeowner’s easements, charges would be levied against the homeowners.

Copies of the Drainage Committee’s recommendations are on file in the Town Clerk’s office.

Councilman Zittel inquired how much notification would landowners be given to know that there is an easement. William Trask, Town Attorney stated that once the establishment of the district goes through the legal process, once approved in Albany and legally created there would be a deed of conveyance of the easement from the current landowner to the special district and would pick up on the abstract and title for each and every property owner.

Councilwoman Pew inquired about the existing homes on Cobblestone Court and Cherry Lane and would they be included in the special district. Andrew Reilly, Town Engineer replied that it is just the new lots.

Wilbert Smutz of 3094 East Church Street asked if the Drainage District for Weller Tract II Phase 2 is the same as the Oakhill Drainage District. Mr. Reilly replied that it would be setup

the same way where as easements received so that when improvements are needed, they can be paid by those who will benefit from it. Councilwoman Pew asked for clarification on the cost and would it be paid by the homeowner or the developer? Mr. Reilly explained that by having the easements it names the town to take care of, however payment would be made by the special district and not the general tax fund. The Special District would also hire the Highway Department to care for the detention basin.

Mr. Smutz asked who designed the detention basin. Mr. Reilly replied that Schreiber & Winkelman has professional engineers design the detention basin and Mr. Reilly reviewed it.

Timothy Walker of 3011 East Pleasant Avenue asked where the pond would be located. Mr. Reilly explained that it would be located behind some of the new lots in back of existing homes at the end of Hillbrook Drive.

There were no further comments or questions.

**MOTION** was made by Councilman Zittel to close the public hearing; seconded by Councilman Vacco; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis closed the public hearing at 8:21 P.M.

**MOTION** was made by Councilman Krycia to open the public hearing to consider Proposed Local Law No. 6-2001, as amended, to be known as the Town of Eden Business Incentive Real Property Tax Law; seconded by Councilwoman Pew; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis opened the public hearing at 8:21 P.M.

**8:15 P.M.**

### **Public Hearing**

**To consider Proposed Local Law No. 6-2001, as amended, to be known as the Town of Eden Business Incentive Real Property Tax Law**

Supervisor Nellis explained that a second public hearing is being held because there was additional information received by the Town Attorney having to do with “What tax abatement could be given” practically below \$50,000.00 resulting in changing the schedule. Mr. Trask explained that the difference between the second draft and the original is that as originally drafted the committed wanted to give the accelerated exemptions to everybody who did more than \$10, 0000.00. Upon further research it was found out that the town couldn’t vary from the State requirement to be eligible for the accelerated schedule of exemptions, you have to have at least \$50,000.000 of improvements.

**MOTION** was made by Councilman Zittel to close the public hearing; seconded by Councilman Krycia; All – “Ayes”; Opposed? – None; Abstain? – None; motion carried.

Supervisor Nellis closed the public hearing at 8:26 P.M.

**MOTION** was made by Councilman Vacco to re-open the Regular Meeting of the Eden Town Board; seconded by Councilman Zittel; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis re-opened the Regular Meeting of the Eden Town Board at 8:26P.M.

## 2.) GIS Grant Received

Councilwoman Pew announced that the GIS Implementation grant has been received from New York State Archives in the amount of \$50,382.00. Councilwoman Pew thanked those who were instrumental in preparing the grant application before explaining what the grant was all about.

Councilwoman Pew explained that the GIS Implementation grant is a technology that will impact five key departments. The Building Department/Code Enforcement, Highway, Police, Eden and East Eden Fire Departments, Assessors and also eventually the residents of the Town of Eden. Councilwoman Pew went on to explain that there are three stages of the GIS Implementation one being the GIS Voice System, which will allow some of the software to be place in some Emergency vehicles to better respond to emergencies. The second is the GIS Voice application, which consists of a commanded dispatch center at the Police department where information would be, communicated via the radio to emergency personnel vehicles, thus allowing user-friendly hand free operation. The third is Human needs mapping which it takes information about those who are handicap or rely on in home life support, can be identified in the case as a power outage. The fourth is the Building Permit record where as migrated of a ten-year old database within a DOS product into a Windows NT database to allow the Building Inspector to link Building permits to parcels that are associated with the permit. The fifth is Drainage mapping enabling to update areas where work needs to be done. Also GIS would be available on the Eden website for residents to access the GIS system.

Councilman Zittel expressed a concern regarding whether monies would be set aside to maintain the software. Councilwoman Pew replied that monies would need to be budgeted in the future for equipment cost that will go down, however maintenance would go up. Initial training would be done from the initial funding and those trained would then train others. Councilman Zittel also asked would the responsibility to budget be done by the departments involved. Councilwoman Pew replied that the goals of the different departments for different applications would vary and that the departments would need to put monies in their budgets to support the maintenance of equipment.

## 3.) Records Management Grant Received



Mary Jo Hultquist, Town Clerk stated that the Town Clerk's office was awarded a Local Government Records Management Improvement Grant for \$22,266.00 for an inactive storage facility to be located in the old Emergency Squad building. The original grant was for \$30,745.00 and the reviewers estimated that it would take 228 hours to transfers inactive records from old site to the new site and they reduced the amount of shelving units from 48 to 35. The plan is to remodel two bays into a modern records storage facility and provide for the purchase of shelving and appropriate air control system new lighting and a fireproof wall between new facility and the remaining bay and updating the existing exterior. The grant will also enable the town the removal of inactive records currently stored in the vault located on the second floor of the Town Hall and reserve that space for active and archival records. The grant will also improve the management of inactive records and an automated locator system will be developed with the purchase of Microsoft Access. The start date will be determined after a meeting with Jim Tammaro from New York State Archives in early October.

Councilwoman Pew congratulated Mrs. Hultquist on a job well done on writing and being awarded the grant.

#### 4.) Resignation – Economic Development Committee

Supervisor Nellis read the resignation letter from Suzanne Fox who has resigned from the Economic Development Committee effective June 30, 2001.

**MOTION** was made by Councilman Krycia to accept the resignation from the Economic Development Committee of Suzanne Fox effective June 30, 2001 with regret and thanks for her work on this committee; seconded by Councilman Vacco; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

#### 5.) Consideration of NEXTEL Tower Special Use Permit

Supervisor Nellis stated that a public hearing was held on the request for a Special Use Permit for Nextel to construct a telecommunication tower at 8174 N. Main Street and it was referred to the Eden Planning Board for recommendation. The Eden Planning Board held a meeting August 2, 2001 and has recommended to the Town Board that a Special Use Permit be issued to Nextel for the construction of a telecommunications tower on a portion of the Weidner property located at 8174 North Main Street with the following conditions:

1. Nextel make every effort to access the tower site from either March or Shadagee Road rather than Route 62 in order to eliminate having to cross the Railroad Tracks located on the entrance from Route 62. The Planning Board is concerned that crossing

the tracks may necessitate the railroad having to put in a crossing and the train having to blow its whistle every time it passes over the entrance, possibly interfering with the character of the neighborhood.

2. A light not be placed on top of the tower unless mandated by the FAA. If one is mandated, it should be a steady red light, not a blinking strobe light.

A copy of the conditions is on file in the Town Clerk's office.

Supervisor Nellis also stated a letter was received from Gerald Brophy, Nextel representative having to do with the access road. Supervisor Nellis suggested that the Town Board members needed an opportunity to review the material and that the Town Board would give their decision at the August 15, 2001 Town Board meeting.

Councilman Vacco expressed his concern regarding crossing the railroad tracks to access the telecommunication tower site. Mr. Brophy stated that funding for railroad crossings to the extent of whatever portion of the access is needed. A possibility is a locked gate that would be installed and restricted to those who would have authority to access the site. Councilman Krycia asked for clarification on who would be eligible and how often. Mr. Brophy explained that his company, Nextel would most likely access the site once or twice a month and if other carriers join the tower they too would have access along with the property owner. During construction ECIDA has asked that a flagman be provided to ensure safe crossings.

Mr. Brophy went on to explain that ECIDA (Erie County Industrial Development Agency) has looked at various ways to access the parcel and it was anticipated that there would be delays regarding the railroad crossing. Mr. Brophy also explained why some access proposals have been rejected.

William Trask, Town Attorney inquired if a locked gate is constructed what about emergency vehicle access, how would it be affected regarding response time, for example to a fire on the site. Mr. Brophy replied that the Town would be given a key and it would be a pad lock and the access code would be keyed the same. The site is also monitored 24 hours.

Also discussed was the possible noise level at the crossing of the whistle. Mr. Brophy explained that he has spoken with residents and was told that the trains already blow their horns and that there are two drops in the terrain creating a burm. The ECIDA will require that a legal easement would specify what kind of crossing would be required at the location. Mr. Brophy also noted that he has provided the Eden Planning Board additional information on another alternative site that was considered.

**MOTION** was made by Supervisor Nellis to table the consideration of Nextel Tower Special Use Permit until August 15, 2001; seconded by Councilman Zittel; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

## 6.) Scheduling of Public Hearing – Storm Water Management and Erosion Control Law

Supervisor Nellis requested to schedule a public hearing on September 12, 2001 for purposes of hearing comments with regards to “Stormwater Management and Erosion Control Law” that the Drainage Committee has worked on.

William Trask, Town Attorney requested the ability to met with the Drainage Committee and discuss some suggestions that he has before the proposed law is presented to the public.

Supervisor Nellis requested that Mr. Trask discuss the suggestions with the Drainage Committee over the next few days and at the August 15, 2001 Town Board meeting, if ready, the public hearing could then be scheduled.

The topic was then tabled until August 15, 2001.

#### 7.) Report of Committees: Hamlet Revitalization & Comprehensive Plan Implementation

Supervisor Nellis stated that Andrew Reilly, Town Engineer submitted summaries of the Hamlet Revitalization and Comprehensive Plan Implementation Committee meetings, which are on file in the Town Clerk’s office.

Councilman Krycia reviewed the summary of the Comprehensive Plan Implementation Committee meeting and the items that the committee discussed such as the Agricultural District Amendments, Creekside Open Space Corridor Overlay, Open Space and Natural Resources Inventory, Cluster Development, Rural Development Guidelines, Restricting Density in Poor Soils and Road Overlays.

After Councilman Krycia completed his report, Councilwoman Pew asked if the Agriculture Committee had a chance to review the report. Councilman Krycia replied that members of the Agriculture Committee were in attendance and had quite a bit of input.

Supervisor Nellis asked the Town Board members to review the reports in preparation for the next Town Board Meeting.

Supervisor Nellis then asked if there was anything the Board members wished to act upon regarding the two public hearings that were held. Mr. Trask requested that the Drainage District in Weller Tract II, Phase 2 Subdivision be put on old business.

Supervisor Nellis then asked if the Town Board members wished to act on Proposed Local Law No. 6-2001.

**MOTION** was made by Councilman Zittel to adopt Proposed Local Law 6-2001 known as the Town of Eden Business Incentive Real Property Tax Law; seconded by Councilman Vacco; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis stated that the Town of Eden Business Incentive Real Property Tax Law has been adopted and would be known as Local Law 7-2001.

Councilman Zittel on behalf of Kevin Schoenthal, East Eden Fire Chief requested that the Town Board add the name of Rachel Schreiber to the East Eden Fire Department active roster upon completion of an O.S.H.A. physical and Arson background check.

**MOTION** was made by Councilman Zittel to add the name of Rachel Schreiber to the East Eden Fire Department's active roster upon completion of an O.S.H.A. physical and Arson background check; seconded by Councilwoman Pew; All – "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

**Supervisor's Report:**

Supervisor Nellis reported that the Eden Chamber of Commerce advised him that "Showcase 2001" has been cancelled. Supervisor Nellis also reported that a FEMA Regional meeting would be taking place September 23<sup>rd</sup> – 25<sup>th</sup> in Atlantic City and requested that Robert Stickney and Maurice Dole, Co-Chairman of the Eden Emergency Preparedness Committee attend, the cost would be covered by FEMA monies.

**MOTION** was made by Councilman Vacco to send two delegates to the FEMA conference in Atlantic City on September 23<sup>rd</sup> – 25<sup>th</sup>; seconded by Councilwoman Pew; All – "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

**Hearing of Visitors:**

There were none.

**Adjournment:**

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

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 9:20P.M.

Respectfully submitted by,

Mary Jo Hultquist  
Town Clerk