

MINUTES

REGULAR MEETING – EDEN TOWN BOARD

2795 EAST CHURCH STREET

EDEN, NEW YORK

FEBUARY 12, 2003

7:30 P.M.

TOWN BOARD MEMBERS PRESENT:

GLENN R. NELLIS - SUPERVISOR
MARY LOU PEW - COUNCILWOMAN (*Deputy Supervisor*)
GEORGE F. ZITTEL - COUNCILMAN, *Absent*
VINCENT V. VACCO - COUNCILMAN
TIMOTHY J. WALKER - COUNCILMAN

DEPARTMENT HEADS PRESENT:

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

OTHERS PRESENT:

William Trask - Town Attorney

Mary Jo Hultquist - Town Clerk
Anna M. Knack - Administrative Assistant
John Reid - R & D Engineering

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 January 8, 2003; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of January 8, 2003 as presented; seconded by Councilwoman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of January 22, 2003; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of January 22, 2003 as presented; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

There were none.

Budget Transfers:

There were none.

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.

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	13-94	\$51,097.32
Highway Dept. Fund	1-31	\$62,501.56
Fire Dept. Fund	4-29	\$17,344.31
Recreation Dept. Fund	3-11	\$5,944.09
Refuse and Garbage Fund	1	\$26,409.31
Street Lights Fund	1	\$4,532.07
Water Fund	1	\$4,019.02
Trust & Agency Fund	--	--
Capital Fund	3-4	\$2,886.06
Community Development	--	--

**February 2002
Payables**

General Fund	862-875	\$18,402.84
Highway Fund	352-354	\$789.97
Fire Fund	300-306	\$1,940.76
Recreation Fund	204-209	\$287.08
Street Light Fund	35-37	\$1,571.65

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

Departmental Reports:

Department reports for the month of January 2003 were presented by 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; Scott Henry, Zoning Code Enforcement Officer; Susan Brass, Recreation Director; Supervisor Nellis for Mary Bailey, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

Ron Maggs, Highway Superintendent requested the Town Board set a bid opening date for Motor Fuels and Related Services for Friday, March 7, 2003 at 10:00 A.M. in the Town Clerk’s office.

MOTION was made by Councilwoman Pew to set a bid opening date for Motor Fuels and Related Services for Friday, March 7, 2003 at 10:00 A.M. in the Town Clerk’s office; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

New and Unfinished Business:

1.) Water Improvement Area Report – Setting of Public Hearing

John Reid, R & D Engineering stated that the weather is slowing things down on the water project. Mr. Reid stated that the issue with the tank site had been resolved with the help of Attorney Trask. Mr. Reid also stated that at the February 26, 2003 Work Session Meeting a Public Hearing date be set for the Gary Drive Water Improvement District Extension #4A.

2.) Advisory Board Reappointment(s)

The following reappointments were brought to the Town Board for approval:

Recreation Board	Salvatore Manuele	5-year term
Planning Board	William Zittel	7-year term

MOTION was made by Councilwoman Pew to approve the above-mentioned Reappointments; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

3.) Business District Enhancement Presentation

Mr. John Cappellino from Erie County Industrial Development Agency (ECIDA) gave a presentation on the Business District Enhancement Program for the Town of Eden. The purpose of the program is to allow towns in Erie County to look at the Business District and identify areas to target for development. The goal of the program is to encourage small locally owned businesses to invest in their physical assets such as building and modern equipment allowing them to be more productive and competitive. Examples of projects would include a business looking to upgrade the appearance of its property or upgrade technology. Two major incentives of the program would be to offer sales tax abatement to purchase equipment, expand or make improvements. The property tax abatement program, which to qualify the value added by a project must result in a minimum increase in a property’s assessment of \$25,000.

Supervisor Nellis stated that the following areas are the Proposed Designated Business Enhancement Districts within the Town of Eden:

1. Route 62 from Hickox Road south to New Jerusalem Road
2. West Church Street from Route 62 to the Railroad Tracks
3. Depot Street
4. Hemlock Road from Route 62 to the Railroad Tracks
5. East Eden Road from Hardt Road south to Schintzius Road

The discussion continued with several questions from the Town Board and residents present. It was decided that the discussion would continue at the Work Session Meeting of the Town Board on February 26, 2003 and at that time a Resolution would be presented.

4.) Report on Hemlock Road Flood Mitigation Project

Andrew Reilly, Town Engineer stated that Ron Maggs, Highway Superintendent has come up with a plan and the project would be moving forward with the revisions. Mr. Maggs is in agreement with the completion date of October 31, 2003 and the Eden Highway Department will be doing 50% of the work. As the project progresses some easements may be required.

**5.) Resolution on Equitable and Dedicated Share of NYS Wireless Surcharge –
Disaster Preparedness**

Supervisor Nellis read the following resolution:

**RESOLUTION REQUESTING AN EQUITABLE AND DEDICATED SHARE
OF THE NEW YORK STATE WIRELESS SURCHARGE**

WHEREAS, in 2002 estimates of revenues generated by the State Wireless Service Surcharge projected approximately \$60 million, and

WHEREAS, in 2002-03 New York State will distribute \$20 million from the State Wireless Service Surcharge which is 33% of the total surcharge collected annually, and

WHEREAS, that amount will be reduced to \$10 million for state fiscal years 2003-04 and 2004-05, and

WHEREAS, the current legislation only authorizes distribution of these funds through 2005, and

WHEREAS, in 2002 New York State raised the wireless service surcharge to \$1.20 on all wireless telephones with the intent of improving public safety communications throughout New York State, and

WHEREAS, this increase will result in a 70% increase in wireless surcharge revenues amounting to over \$100 million annually,

THEREFORE, BE IT RESOLVED that the ten western New York counties (Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans and Wyoming) that comprise the Western Region Public Safety Communications Alliance, and their cities, towns and villages included therein, call upon New York State and our representatives to support maintaining the 2002 distribution percentage of 33% of the total surcharge collected, and

BE IT FURTHER RESOLVED, that the Western Region Public Safety Communications Alliance calls on New York State and our representatives to make permanent the 33% of the

wireless surcharge received being returned to local governments to offset costs associated with upgrading, operating and maintaining wireless public safety answering points and dispatching of public safety providers in response to wireless 911 calls, and

FINALLY, BE IT RESOLVED that the counties in the Western Region Public Safety Communications Alliance, and the cities, towns and villages who support this resolution shall forward copies of this resolution to Governor George E. Pataki, the New York State Legislature and all other deemed necessary and proper.

MOTION was made by Councilwoman Pew to approve the above-mentioned Resolution; Seconded by Councilman Walker; all “Ayes”; Opposed? – None; Abstain? None; Motion carried

6.) Resolution for Maintenance of Landscape Improvements on Main Street

Supervisor Nellis read a Resolution for maintenance of Landscape Improvements on Main Street. Some language contained in the resolution will need further consideration before the Town Board can pass this Resolution.

**7.) Application for Liquor License Renewal – Newell Faulkner Post 880 –
American Legion**

Supervisor Nellis stated that the Liquor License Renewal had been received from Newell Faulkner Post 880 – American Legion and that it was informational in nature.

8.) Proposed Changes to Code of the Town of Eden (Local Law)

Supervisor Nellis stated that a Public Hearing would need to be set for proposed changes to the Code of the Town of Eden to clarify some items and to bring them in line with the new code of New York State.

MOTION was made by Supervisor Nellis to set a Public Hearing for March 12, 2003 at 8:00 P.M. for Proposed Local Law #1-2003 (Proposed Changes to Code of the Town of Eden); seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

9.) Sprint – Special Use Permit Renewal

Supervisor Nellis received a memo from Ann Knack, Administrative Assistant regarding the Special Use Permit Renewal for Sprint. Sprint Spectrum needed to comply with Conditions 6 and 7 of their original permit before final approval could be given for the renewal. These conditions have to do with the Structural Integrity Report and the Radio Frequency Safety Certification for the tower. This has now been worked out with Sprint through their legal counsel, Harris Beach and our office has received the required certifications for Conditions 6 and 7.

MOTION was made by Councilman Walker to give final approval for renewal of Sprint’s Special Use Permit Renewal; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

10.) Eden Planning Board – Cell Tower Moratorium

Supervisor Nellis received correspondence from Mark Agle, Chairman of the Eden Planning Board regarding cell phone tower applications. Mr. Agle and the members of the Planning Board recommended to the Town Board that a four-month moratorium be placed on cell phone (telecommunications) tower applications providing time to research and/or amend applicable Town Codes and Ordinances pertaining to these facilities. It was also recommended that a six-month moratorium be placed on windmill power generating system applications, providing time to research, review and/or amend applicable Town Codes and Ordinances pertaining to these facilities.

Drew Reilly, Town Engineer stated that the Town of Hamburg had recently done a moratorium on towers. Bill Trask, Town Attorney asked if the Town of Eden had a current

pending application and Scott Henry, Building Inspector stated that there were no applications at this time.

After much discussion it was decided, that to be consistent, a 6-month moratorium be placed on both the cell phone (telecommunications) tower application and windmill power generating system applications.

Supervisor Nellis stated that a Public Hearing would be needed for Proposed Local #2-2003 and Proposed Local #3-2003.

MOTION was made by Supervisor Nellis to hold a Public Hearing on March 12, 2003 at 8:15 P.M. for Proposed Local Law #2-2003 and Proposed Local Law #3-2003; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

It was discussed that the Town Board, Planning Board, Drew Reilly, Town Engineer, Bill Trask, Town Attorney and the Zoning Board be included in drafting the Local Laws.

Supervisor’s Report:

Supervisor Nellis stated that the retention basin on Hillbrook Drive had been turned down by FEMA, even though the State had approved the project.

Hearing of Visitors:

Ruth Szalasny, 3048 Belknap Road.

Adjournment:

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

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 9:40 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting
at 10:00 P.M.

Respectfully submitted by,

Mary Jo Hultquist

Town Clerk