

**MINUTES**

**REGULAR MEETING – EDEN TOWN BOARD**

**EAST EDEN FIRE HALL**

**8097 EAST EDEN ROAD**

**EDEN, NEW YORK**

**MAY 7, 2003**

**7:30 P.M.**

**TOWN BOARD MEMBERS PRESENT:**

GLENN R. NELLIS	-	SUPERVISOR
MARY LOU PEW	-	COUNCILWOMAN ( <i>Deputy Supervisor</i> )
GEORGE F. ZITTEL	-	COUNCILMAN
VINCENT V. VACCO	-	COUNCILMAN
TIMOTHY J. WALKER	-	COUNCILMAN

**DEPARTMENT HEADS PRESENT:**

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

**OTHERS PRESENT:**

William Trask - Town Attorney  
Mary Jo Hultquist - 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 April 9, 2003; there were none.

**MOTION** was made by Councilman Walker to approve the Town Board Minutes of April 9, 2003 as presented; seconded by Councilman Zittel; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of April 23, 2003; there were none.

**MOTION** was made by Councilman Walker to approve the Town Board Minutes of April 23, 2003 as presented; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Petitions:**

There were none.

**Budget Transfers:**

There were none.

**Budget Amendments:**

Supervisor Nellis read the following “Budget Amendments” from Account A2763 to A8020.4C for Industrial Park grant money received in the amount of \$3,339.76, from Account A2680 to A1620.4 for Insurance recovery – Hillbrook light post damage in the amount of \$1,465.70, from Account A2770 to A8020.4 for Association of Towns – refund registration fee for NYC meeting in the amount of \$90.00 and from Account A2770 to A1010.4 for Association of Towns – refund registration fee for NYC meeting in the amount of \$90.00

**MOTION** was made by Councilman Walker to approve the “Budget Amendments”; seconded by Councilwoman Pew; 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.



<b>DESCRIPTION</b>	<b>VOUCHER NUMBERS</b>	<b>AMOUNT</b>
General Fund	221-290	\$73,749.85
Highway Dept. Fund	89-123	\$29,358.53
Fire Dept. Fund	75-95	\$24,899.12
Recreation Dept. Fund	43-59	\$6,297.89
Refuse and Garbage Fund	5-6	\$26,869.32
Street Lights Fund	7-9	\$6,309.33
Water Fund	6-7	\$6,241.70
Trust & Agency Fund	--	--
Capital Fund	13-20	\$294,275.58
Community Development	--	--

**MOTION** was made by Councilman Zittel 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 April, 2003 were presented by Ken Franz for Paul Shephard, Eden Emergency Squad; Paul Laing, Eden Fire Chief; 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; Supervisor Nellis for Susan Brass, Recreation Director; Supervisor Nellis for Mary Bailey, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

**New and Unfinished Business:**

**1. Bid Award – Recreation Pool Chemicals**

Supervisor Nellis read correspondence from Susan Brass, Recreation Director regarding the Bid Award for Pool Chemicals. As per the Town of Eden procurement policy, a minimum of three informal written bid requests were sent to prospective bidders. Of those returned, the following bidder was determined to be the lowest responsible bidder:

Fisher Pools  
247 Lake Street  
Hamburg, NY 14075  
Amount: \$2,754.05

**MOTION** was made by Councilwoman Pew to accept the bid for Pool Chemicals to Fisher Pools in the amount of \$2,754.05; seconded by Councilman Zittel; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**2. Reappointment – Erie County Environmental Management Council**

Supervisor Nellis read correspondence from Laurence K. Rubin, Commissioner of the Department of Environment & Planning for the County of Erie advising the Supervisor that the term for Mr. Lamont Beers on the Erie County Environmental Management Council (ECEMC) will expire on May 31, 2003.

**MOTION** was made by Supervisor Nellis to redesignate Mr. Beers for an additional two-year term on the Erie County Environmental Management Council to expire May 31, 2005; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**3. Open Development Area**

Supervisor Nellis read correspondence from the Eden Planning Board

Recommending to the Town Board that Pat Howard's request to declare his property an Open Development Site be granted with the following conditions:

- The property owner should be allowed to reestablish the primary residence and that there be a permanent easement through the adjacent lot (also owned by Mr. Howard) to Route 62.
- Mr. Howard was also instructed that he would need to present to the Town Board a statement from the Fire and Emergency Services departments stating that the driveway access meets requirements and is adequate to service the hose, which is quite a distance off the road, in the event of an emergency.

Supervisor Nellis stated that he has received correspondence from Paul Laing, Eden Fire Chief that the site is accessible for fire apparatus in the case of an emergency and the pond on the property would also provide an adequate water supply for fire protection. Ken Franz, Eden Emergency Squad stated that if the fire department is accessible an emergency vehicle would be also.

**MOTION** was made by Councilman Zittel to approve the request from Pat Howard to declare his property an Open Development Site with the above-mentioned conditions; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

**4. Presentation of All Hazard Analysis for Eden – Bob Stickney/Maurice Dole**

Supervisor Nellis introduced Mr. Robert Stickney and Mr. Maurice Dole, Co-Chairman of the Eden Disaster Preparedness Committee. A power-point presentation was given with discussion. A report from the committee regarding the analysis is on file in the Town Clerk's office. Councilwoman Pew congratulated the committee for being pro-active and offered thanks to Ann Knack for all her help.

**5. Proclamation on All Hazard Mitigation**

Councilwoman Pew offered the following Resolution:

**TOWN OF EDEN RESOLUTION**

**Acceptance of Draft All-Hazard Mitigation Plan that will be submitted for approval to the New York State Emergency Management Office (SEMO) on behalf of the Town of Eden**

**WHEREAS**, funds have been received from the new York State Emergency Management Office through the Federal Government to write an All-Hazard Mitigation Plan for each of the 44 communities of Erie County; and

**WHEREAS**, these funds received by Erie County will be used to assist in preparing a County-Wide All Hazard Mitigation Plan; and

**WHEREAS**, this plan must be completed by November 4, 2004 by all 44 municipalities, in order to comply with the Federal Mandate, in order to be eligible for FEMA funding after a federal disaster declaration;

**NOW, THEREFORE BE IT RESOLVED**, that the Eden Town Board, on behalf of the Department of Emergency Services, is hereby authorized to complete the All-Hazard Mitigation Plan; and be it further

**RESOLVED**, that funds that Erie County has received will be utilized to complete the All-Hazard Mitigation Plan to meet the Federal Mandate of November 2004; and be it further

**RESOLVED**, that the Eden Town Board hereby authorizes the Erie County Department of Emergency Services to submit this draft plan on our behalf to meet the Federal Mandate of submission by November 1, 2004; and be it further

**RESOLVED**, that copies of this resolution be submitted to the Erie County Department of Emergency Services to be included in the draft All-Hazard Mitigation Plan that will be submitted to the New York State Emergency Management Office for approval.

**MOTION** was made by Councilwoman Pew to adopt the Resolution; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

## **6. Proposed Sign Ordinance**

Supervisor Nellis stated that a draft has been given to the Economic Development Committee, Scott Henry, Building Inspector and Andrew Reilly, Town Engineer to be reviewed. Ed Krycia, Chairman of the Economic Development Committee gave a brief report and told the Town Board that the committee is taking a “common sense” approach to the ordinance.

## **7. Sonnybrook – Phase III**

Supervisor Nellis stated that he has received a report from the Planning Board regarding the Sonnybrook – Phase III proposed green space issue. A map was also included for the presentation. A meeting was held in December with representatives from the Recreation Board, Planning Board, Supervisor Nellis, Councilman Zittel as well as Don Schreiber, Jr. Following that meeting the Planning Board received a letter of recommendation from the Eden Recreation Board stating that they will accept the green space that is proposed and the overall concept which provides that the green space, 3.19 acres, is to be merged with what the Town currently owns on the adjacent subdivision as well as provides for the future addition of green space from any future subdivision to the south.

Much discussion followed about future development in that area and that another 4.25 acres of land would be kept for green space.

**MOTION** was made by Councilman Zittel to the accept the recommendation of the Planning and Recreation Committees for the 3.19 acres of dedicated space for the Sonnybrook Phase III pending review of title by Town Attorney; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**\*\* Note:** Bill Trask, Town Attorney advised the Town Board to send back to the Planning Board that the Town Board is in agreement with the concept of the reservation of the park land shown on the conditional preliminary plat. Final approval is subject to Town Attorney review



and approval of title and that the Town Board wishes to also endorse the Planning Boards concept that it desires to have additional lands added to this if contiguous property is developed in the future, added as additional green space.

**8. Mini Self-Storage Proposal from Schreiber and Winkelman, Inc.**

Supervisor Nellis stated that the Planning Board approved a motion to recommend the Town Board schedule a Public Hearing for the preliminary review of this application. A Public Hearing will be held on May 28, 2003 at 8:30 P.M.

**9. Moratorium on Telecommunication Facilities and Wind Energy Conversion Systems**

Supervisor Nellis stated that the Planning Board recommends that the Town Board move to enact a 6-month moratorium on telecommunication facilities and Wind Energy Conversion Systems. The purpose of these moratoriums is to provide an opportunity for the Town to review its current codes with respect to these two rapidly changing areas of technology, and to revise its codes accordingly. The Planning Board also suggests that the Town Board direct to the Town Engineer to review all information and input gathered relative to this matter (other municipal codes, web site information, and committee feedback, etc.). Also to compile a list of proposed code revisions for consideration by the Planning Board.

**MOTION** was made by Supervisor Nellis to approve Local Law #3-2003 imposing a 6-month moratorium on the issuance of applications and the granting of permits, licenses or approvals for the siting, location, construction or development of Telecommunication Facilities in the Town of Eden; seconded by Councilman Walker; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

**MOTION** was made by Councilman Vacco to approve Local Law #4-2003 imposing a 6-month moratorium on the issuance of applications and the granting of permits, licenses or approvals for the siting, location, construction or development of Wind Energy Conversion Systems in the Town of Eden; seconded by Councilman Zittel; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

## **10. Swartz Field – Berner property**

Attorney Trask stated that the Town of Eden has an opportunity to purchase a strip of land that will give access from North Main Street to Swartz field along the north of the Berner property at a cost of \$65,000 plus closing costs. Another party will purchase the balance of that property which has been for sale for some time. At this time the Supervisor is asking the Town Board for authorization to sign the contract to purchase this property.

**MOTION** was made by Councilman Walker to authorize the Supervisor to sign a contract to purchase the property at a cost of \$65,000.00 plus closing costs; seconded by Councilman Zittel; All “Ayes”; Opposed? – None; Abstain? –None; Motion carried.

**\*\* Note:** For informational purposes Attorney Trask made note that the property is currently a single lot of record and we will be splitting it up into a town owned strip of approximately 40 feet, to be determined by our Engineer and the balance of it will be owned by the new owner of the house and the garage/apartment. The Town is responsible as a part of this deal for obtaining any necessary municipal approvals to have a legally subdivided lot there.

## **11. Collateral Source Bill**

Supervisor Nellis received information from Barry P. Schwartz asking for support of the Collateral Source Bill. Councilman Walker read the following:

The Bill would end the unfair taxpayer-funded double dipping windfalls that are presently allowed only against the public employer which permit injured municipal workers to collect twice for the same injury for their future lost earnings. Governor Pataki has proposed similar legislation. The coalition includes the State Attorney General; the State Bar Association; the Citizens Union; the Advisory Committee on Civil Practice established by the Chief Administrative Judge; nearly 80% of all counties outside of New York City (42 of 57); 44 cities; 115 towns; and 108 villages. Locally the support from Erie County includes the County itself; the cities of Buffalo and Lackawanna; the Towns of Alden, Amherst, Cheektowaga, Clarence, Evans, Hamburg, Lancaster, Marilla and Orchard Park; and the Villages of Hamburg and Lancaster.

**MOTION** was made by Councilman Walker to support the above-mentioned Collateral Source Bill (S.622/A.3483); seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

### **Supervisor's Report:**

Supervisor Nellis stated that all town officials were invited to participate in the Memorial Day services on May 26, 2003 with the parade starting at 11:30 A.M.

Supervisor Nellis stated that Post 880 American Legion would be holding a "Helicopter Memorial Dedication Service" on May 17, 2003 (Armed Forces Day) at 3:00 P.M. on the Newell-Faulkner Post 880 Memorial Grounds; everyone is invited to attend. The memorial that has been erected is an AH-1 Cobra attack helicopter which flew in Vietnam under assignment with the 1<sup>st</sup> Air Cavalry Division.

Supervisor Nellis stated that a Bond Sale took place on Wednesday May 7, 2003 for Water District No. 4 with Fleet Bank at a rate of 1.04% interest.

### **Hearing of Visitors:**

Michael Bolo, 9998 Clarksburg Road

Frank Mantione, 2722 Kulp Road

### **Adjournment:**

**MOTION** was made by Councilwoman Pew 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 9:30 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