

MINUTES

**WORK SESSION MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
MAY 28, 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

OTHERS PRESENT:

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

Call To Order:

Supervisor Nellis called the Work Session 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.

Budget Amendment:

Supervisor Nellis read the following “Budget Amendments” from Account A2763 to A8020.4C for Industrial Park grant money received from Erie County in the amount of \$4,590.10

MOTION was made by Councilman Zittel to approve the “Budget Amendment”; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

New and Unfinished Business:

1. Proposed Sign Ordinance – Schedule of Public Hearing

Supervisor Nellis received the proposed Sign Ordinance, which will work in conjunction with the 2001 Master Plan. Gary Neureuter, Don Schreiber, Jr. and Ed Krycia, Jr. from the Economic Development Committee have reviewed the ordinance and are all

in agreement. Attorney Trask and the Planning Board along with all other committee chairman will review a copy of the ordinance.

Supervisor Nellis then asked the Town Board to schedule a Public Hearing for June 25, 2003 at 8:00 P.M.

MOTION was made by Councilwoman Pew to set the Public Hearing for June 25, 2003 at 8:00 P.M.; seconded by Councilman Walker; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

2. Unsafe Structure at 2459 Shadagee Road

Supervisor Nellis stated that his office had received a telephone call from Mr. Ricey at 2459 Shadagee Road, stating that the notice of action had not been received. Demolition has occurred or will be occurring shortly. This item will be added to New and Unfinished Business for the June 11, 2003 meeting.

3. Recreation Appointments – Summer Programs

Supervisor Nellis read correspondence from Susan Brass, Recreation Director regarding staff appointments due to the refusal to accept or departure from employment of personnel already approved. These are not new or additional positions, simply replacements for already approved staff that have since declined or resigned the position offered.

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

4. Gary Drive Water Improvement Area – Bond Resolution

Councilwoman Pew read the following Resolution regarding the \$170,700 Serial Bond for Gary Drive Water Improvement Area No. 4:

BOND RESOLUTION DATED MAY 28, 2003

**A RESOLUTION OF THE TOWN OF EDEN TOWN BOARD
DATED MAY 28, 2003, AUTHORIZING THE
CONSTRUCTION OF WATER IMPROVEMENTS IN THE
GARY DRIVE/WATER SYSTEM AREA 4, WHICH AREA
HAS BEEN DETERMINED TO BE THE BENEFITED
AREA, AT A MAXIMUM AMOUNT NOT TO**

EXCEED \$170,700, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$170,700 OF THE TOWN OF EDEN, ERIE COUNTY, NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Eden, Erie County, New York (the "Town"), has determined to proceed with the construction of water improvements in the Gary Drive/Water Improvement Area 4; and

WHEREAS, the Town Board desires to undertake the construction of water system improvements in the Gary Drive/Water Improvement Area 4, consisting of the construction of 1,500 linear feet of 8-inch PVC watermain for the expanded service area and the general location of the additional watermains required to provide service, which will provide a public potable water supply to 6 developed properties in the Town of Eden, and other improvements and costs incidental thereto, (the "Water Improvement"), all within the area of the Town outside any villages, which area has been determined the benefited area (the "Benefited Area" or the "Gary Drive/Water Improvement Area 4"); and

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of the Water Improvement.

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is the Water Improvement in the Gary Drive/Water Improvement Area 4 (the "Benefited Area") in the Town of Eden. The maximum cost of said purpose will not exceed \$170,700.

SECTION 2. The Town Board plans to finance the maximum estimated cost of said purpose by the issuance of serial bonds in an amount not to exceed \$170,700 of said Town, hereby authorized to be issued therefore pursuant to the Local Finance Law. The cost of such improvement is to be paid by the issuance of serial bonds, and by a benefit assessment on the various lot and parcels of the Benefited Area sufficient to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is forty (40) years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on the various lot and parcels of said Benefited Area a benefit assessment sufficient to pay the principal of and interest on such bonds as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

SECTION 8. The expected source of funds to be used initially to pay for up to \$170,700 of the expenditures authorized by Section 1 of this resolution shall be from moneys held in various accounts of the Town. The Town then reasonably expects to reimburse such expenditure with the proceeds of the bonds or bond anticipation notes authorized by Section 2 of this resolution. This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The Town had issued a negative declaration determining that the undertaking of the Water Improvement will not have a significant effect on the environment.

SECTION 12. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

(1) (a) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or

(b) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

(2) Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 13. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in the "SUN AND ERIE COUNTY INDEPENDENT," a newspaper having a general circulation in said Town and hereby designated as the official newspaper of said Town for such publication.

SECTION 14. This Resolution is effective immediately.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

VOTING	<u>Aye</u>	Supervisor Nellis
VOTING	<u>Aye</u>	Councilwoman Pew
VOTING	<u>Aye</u>	Councilman Zittel
VOTING	<u>Aye</u>	Councilman Vacco
VOTING	<u>Aye</u>	Councilman Walker

The foregoing resolution was thereupon declared duly adopted.

MOTION was made by Councilwoman Pew to adopt the Bond Resolution; seconded by Councilman Zittel; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Supervisor's Report:

Supervisor Nellis stated that he received correspondence from the Senator William Stachowski with his support of the adoption of the Collateral Source Bill (S.622/A3483), which is waiting for action by the entire Senate.

Supervisor Nellis announced the following important dates:

June 14, 2003 – Electronic Recycling Drop-off ECC – South
June 21, 2003 – Household Hazardous Drop-off ECC – South
June 14, 2003 – Creek Clean-up, contact Frank Mantione
June 14, 2003 – Fun Walk – Eden Boys/Girls Club

Hearing of Visitors:

Ruth Szalasny, 3048 Belknap Road
Richard Szalasny, 3048 Belknap Road

Adjournment:

MOTION was made by Councilman Zittel to adjourn to a brief “Executive Session” at 8:10 P.M.

MOTION was made by Councilman Zittel to return to the Work Session Meeting of the Eden Town Board at 8:28 P.M.

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

Supervisor Nellis closed the Work Session of the Eden Town Board at 8:00 P.M.

MOTION was made by Councilwoman Pew to open the Public Hearing for a request from Schreiber & Winkelman for a Special Use Permit, which if approved would allow the placement of a self-storage facility at 8750 South Main Street, Eden, NY; seconded by Councilman Walker; All “Ayes”; Opposed? – None Abstain? – None; Motion carried.

8:30 P.M.

Public Hearing
Request from Schreiber & Winkelman for a Special Use Permit, which if
approved would allow the placement of a self-storage facility at
8750 South Main Street, Eden, New York

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

- **Note:** Mary Jo Hultquist, Town Clerk received signed "Return Receipts" from residents within 500 feet of 8750 South Main Street from Donald Schreiber, Jr. which are on file in the Town Clerk's office.

Supervisor Nellis stated that a preliminary drawing of the site was available for viewing.

Supervisor Nellis has received correspondence from the Chamber of Commerce with their support and from Father Grabowski from Immaculate Conception Church showing his support and concerns.

The following persons spoke in favor of the proposed Special Use Permit:

Wilburt Smutz, 3094 East Church Street
Gary Neureuter, 8738 Woodside Drive
Michael Bolo, 9998 Clarksburg Road
Edward Krycia, 7322 East Eden Road
James Haag, 2159 Derby Road

Mr. Haag, owner of the Eden Bowling Center located next door to the proposed site did express concern about proper drainage, as Mr. Schreiber's property is higher than the parking lot on Mr. Haag's property. He added that he and Mr. Schreiber had spoken briefly about this concern and hoped that Mr. Schreiber would continue to work towards alleviating any potential drainage problems for him. Mr. Schreiber stated that a detention basin is planned for the back of his property, which should make things better for Mr. Haag, but that he would continue his discussions with him on this matter as the project progresses.

Discussion continued between the citizens present and member of the Town Board.

Supervisor Nellis stated that the Planning Board would like to review the proposal with the results of the public hearing and would be discussing that information at their scheduled meeting of June 5, 2003 and would then have a decision for the Town Board.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the Public Hearing at 8:45 P.M.

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

MOTION was made by Councilman Zittel to open the Work Session Meeting of the Eden Town Board; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Adjournment:

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

Supervisor Nellis adjourned the Work Session Meeting of the Eden Town Board at 8:50 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk