
MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
JUNE 9, 2004
7:30 P.M.**

TOWN BOARD MEMBERS PRESENT:

GLENN R. NELLIS - SUPERVISOR
MARY LOU PEW - COUNCILWOMAN (*Dep. Supv.)(Absent)*
EDWARD KRYCIA, JR - COUNCILMAN
VINCENT V. VACCO - COUNCILMAN
TIMOTHY J. WALKER - 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
Paul Laing, Jr. - Eden Fire Chief
Kevin R. Schoenthal - East Eden Fire Chief
Susan Brass - Recreation Director
Robert Pietrocarlo - Chairman Board of Assessors

OTHERS PRESENT:

William Trask - Town Attorney
Mary Jo Hultquist - Town Clerk

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 May 12, 2004; there were none.

MOTION was made by Councilman Walker to approve the Town Board Minutes of May 12, 2004 as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of May 26, 2004; there were none.

MOTION was made by Councilman Krycia to approve the Town Board Minutes of May 26, 2004 as presented; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

There were none.

Budget Amendments:

Supervisor Nellis read the following “Budget Amendments” from Account A2770 to A1680.4A for refund for wrongly cashed check in the amount of \$408.14 and from Account A3823 to A1680.4A for additional grant money received for website grant in the amount of \$13,600.00.

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

Budget Transfers:

Supervisor Nellis read the following “Budget Transfer” from Account A1990.4 to A1440.4 for additional engineering costs in the amount of \$4,000.00.

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

Audit Bills:

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

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
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General Fund	318-381	\$38,539.62
Highway Dept. Fund	119-146	\$27,303.07
Fire Dept. Fund	124-143	\$15,045.62
Recreation Dept. Fund	51-65	\$1,456.13
Refuse and Garbage Fund	6-7	\$65,012.50
Street Lights Fund	11-13	\$4,034.23
Water Fund	17-19	\$4,809.31
Trust & Agency Fund	--	--
Capital Fund	8	\$5,387.50
Community Development	--	--

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

Departmental Reports:

Department reports for the month of May 2004 were presented by 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; Susan Brass, Recreation Director; Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

Paul Laing, Eden Fire Chief extended an invitation to all present to the Dedication Ceremony and Reception for Eden Rescue #7 on Sunday, June 27, 2004 at 2:00 P.M.

Mary Jo Hultquist, Town Clerk stated that she has accepted, with regret, resignation from Paula A. Thurston, Deputy Town Clerk effective June 8, 2004. Mrs. Thurston worked as Deputy Town Clerk since January, 1999. The Town Board acknowledged the resignation and publicly thanked Mrs. Thurston for her service to the Town of Eden.

New and Unfinished Business:

1. **SEQR and Bond Resolution for Violet Street Pump Station**

Supervisor Nellis read the following:

**RESOLUTION ADOPTING SEQRA NEGATIVE DECLARATION
REGARDING CONSOLIDATED WATER DISTRICT AND
WATER DISTRICT NO. 4 PROJECT**

WHEREAS, the Town of Eden seeks to improve and maintain adequate water facilities for its residents; and

WHEREAS, the Town Board, as lead agency, has identified the relevant impacts, taken at a hard look at those impacts, and made its determination in a written document, all pursuant to the requirements of the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, the Consolidated Water District and Water District No. 4 Project has been given full environmental consideration, will not disturb any significant land areas within the Town, and the New York State Office of Parks, Recreation and Historic Preservation (“SHPO”) issued a finding of no contacts/disturbance for the Project; and

WHEREAS, the Town has completed Part 1 and Part 2 of an Environmental Assessment Form (“EAF”) in accordance with the provisions of SEQRA regarding the project; and

WHEREAS, the Town has considered the project, and reviewed the EAF and the criteria set forth in SEQRA in order to determine whether the project will not have a significant effect on the environment;

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Eden:

1. The Consolidated Water District and Water District No. 4 Water Project will not have a significant adverse impact on the environment for the reasons fully detailed in the attached Negative Declaration, which is made a part of this resolution.
2. It adopts and issues the attached Negative Declaration under SEQRA for the proposed project.
3. It directs the Town Clerk to file the Negative Declaration with the Town Supervisor of the Town of Eden and to maintain a file of the Negative Declaration readily accessible to the public.
4. This resolution is effective immediately.

MOTION was made by Supervisor Nellis to adopt the Resolution; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

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

Supervisor Nellis closed the Regular Meeting of the Eden Town Board at 8:00 P.M.

MOTION was made by Councilman Walker to open the Public Hearing to Amend the Standard Schedule of Fees; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis opened the Public Hearing at 8:00 P.M.

8:00 P.M.
Public Hearing
Proposed Local Law #4-2004

**A Local Law Amending the Town of Eden's
Standard Schedule of Fees**

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

Supervisor Nellis then explained that the proposed Local Law would amend Section 3 of the Town of Eden Standard Schedule of Fees as follows:

Under A. Residential

The fee for a Fence Permit shall be **\$35.00.**

There were no comments.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the Public Hearing at 8:04 P.M.

MOTION was made by Councilman Krycia to close the Public Hearing; seconded by Councilman Walker; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

MOTION was made by Councilman Krycia to open the Regular Meeting of the Eden Town Board; seconded by Councilman Walker; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Councilman Walker read the following Resolution:

**RESOLUTION AND ORDER
AFTER PUBLIC HEARING APPROVING
THE JOINT INCREASE AND IMPROVEMENTS OF
FACILITIES OF THE CONSOLIDATED WATER
DISTRICT AND WATER DISTRICT NO. 4**

WHEREAS, the Town Board of the Town of Eden (herein called "Town Board" and "Town", respectively), in the County of Erie, New York on behalf of the Town's Consolidated Water District and Water District No. 4 (collectively, the "Districts"), in the Town, has requested R & D Engineering, Inc., engineers duly licensed by the State of New York ("Engineer"), to prepare a map, plan and report for the joint increase and improvement of facilities of the Districts consisting of (i) the construction of a new pump station on the same parcel of land as the Violet Street water tank, (ii) the acquisition of land easement, (iii) the construction of new waterlines for pump station supply, (iv) discharge and system interconnection, (v) general site work, and (vi) electrical supply and construction, including preliminary work, necessary materials, equipment and site work (the "Improvement Project"), and has estimated the total cost thereof to be \$578,000; said cost to be financed by the issuance of serial bonds of the Town in the amount of \$578,000, said amount to be offset by any federal, state, county and/or local grants; and

WHEREAS, the Town Board has given due consideration to the impact that the joint increase and improvement of the facilities of the Districts may have on the environment and

on the basis of such consideration, the Town Board found that no substantial adverse environmental impact will be caused thereby; and

WHEREAS, the Town Board and the Town have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, which has been filed in the office of the Town Clerk.

WHEREAS, the Town Board issued an Order at its March 24, 2004 meeting calling for a public hearing to be held at the Town Hall, 2795 East Church Street, Eden, New York, on the 14th day of April, 2004 at 8:30 o'clock P.M. (prevailing time) to consider said joint increase and improvement of facilities of the Districts and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing; and

WHEREAS, said notices of the public hearing were properly published and posted and the public hearing duly held at the time and place stated in the notices.

NOW THEREFORE BE IT RESOLVED AND DETERMINED BY THE TOWN BOARD OF THE TOWN OF EDEN, based on the information provided at the public hearing, as follows:

DETERMINED, that it is in the public interest to jointly increase and improve the facilities of the Districts as hereinabove described and referred to at the estimated maximum cost of \$578,000; and it is hereby

DETERMINED, that the parcels and lots of the Districts shall be benefited by said joint increase and improvement of the facilities of the Districts; and it is hereby

DETERMINED, that all parcels and lots benefited by said joint increase and improvement of the facilities are included in the Districts; and it is hereby

ORDERED, that the facilities of the Districts shall be so jointly increased and improved and that the Engineer shall prepare plans and specifications and make a careful estimate of the expense for said joint increase and improvement of the facilities, and with the assistance of the Town Attorney, prepare a proposed contract for the execution of the work, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible, and it is hereby

FURTHER ORDERED, that the expense of said joint increase and improvement of the facilities shall be financed by the issuance of serial bonds of the Town in an amount not to

exceed \$578,000, said amount to be offset by any federal, state, county and/or local grants, and the costs of said joint increase and improvement of facilities shall be annually apportioned among the Districts by the Town Board, and the amounts so apportioned shall be assessed, levied and collected from the several lots and parcels of land within each such district for such purpose in the same manner and at the same time as other Town charges, except as provided by law, and it is hereby

FURTHER ORDERED, that within ten (10) days after adoption of this Resolution and Order, the Town Clerk shall record with the Clerk of the County of Erie a copy of this Resolution and Order, certified by said Town Clerk.

The adoption of the foregoing Resolution Approving the Joint Increase and Improvement of Facilities of the Consolidated Water District and Water District No. 4 was duly put to a vote on roll call, which resulted as follows:

AYES: Glenn R. Nellis, Supervisor
 Edward Krycia, Councilman
 Vincent Vacco, Councilman
 Timothy Walker, Councilman

The Resolution was declared adopted.

The following Resolution was read by Councilman Krycia;

BOND RESOLUTION DATED JUNE 9, 2004

A RESOLUTION OF THE TOWN OF EDEN TOWN BOARD DATED JUNE 9, 2004, AUTHORIZING THE JOINT INCREASE AND IMPROVEMENT OF FACILITIES OF THE CONSOLIDATED WATER DISTRICT AND WATER DISTRICT NO. 4 AT A MAXIMUM AMOUNT NOT TO EXCEED \$578,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$578,000 OFFSET BY ANY FUNDS RECEIVED FROM THE UNITED STATES OF AMERICA, THE STATE OF NEW YORK, THE COUNTY OF ERIE, AND/OR LOCAL GRANTS FOR SAID OBJECT OR PURPOSE OR REDEMPTION OF THE TOWN'S OBLIGATION ISSUED THEREFOR, 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 Joint Increase and Improvement of Facilities of the Consolidated Water District and Water District No. 4 (the "Improvement Project"); and

WHEREAS, the Town Board desires to undertake the construction of the Improvement Project, involving (i) the construction of a new pump station on the same parcel of land as the Violet Street water tank, (ii) the acquisition of land easement, (iii) the construction of new waterlines for pump station supply, (iv) discharge and system interconnection, (v) general site work, and (vi) electrical supply and construction, including preliminary work, apparatus and other improvements and costs incidental thereto, (the "Improvement").

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of the 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 Joint Increase and Improvement of facilities of the Consolidated Water District and Water District No. 4 (the "Districts") in the Town of Eden. The maximum cost of said purpose will not exceed \$578,000.

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 \$578,000 of said Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local grants. The cost of such improvement is to be paid by the issuance of serial bonds, and by the assessment, levy and collection of assessments from the several lots and parcels of land within the Districts based on the benefit received by said lots and parcels, except as provided by law, 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 irrevocable 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 be the assessment,

levy and collection of assessments from the several lots and parcels of land within the Districts in the same manner and at the same time as other Town charges, except as provided by law, 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 \$578,000 of the expenditures authorized by Section 1 of this resolution shall be from moneys held in various accounts of the Town. The Town then reasonable 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 14c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The Town has issued a negative declaration determining that the undertaking of the Improvement Project 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 that date of such publication; or

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

SECTION 13. This Resolution is effective immediately.

SECTION 14. 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 a newspaper having a general circulation in said Town and designated as the official newspaper of said Town for such publication.

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

VOTING	Aye	Glenn R. Nellis, Supervisor
VOTING	Aye	Edward Krycia, Councilman
VOTING	Aye	Vincent Vacco, Councilman
VOTING	Aye	Timothy Walker, Councilman

The foregoing resolution was thereupon declared duly adopted.

2. Giant Tree of Eden Contest

Supervisor Nellis stated that this item would be tabled and moved to “Old Business” for the agenda of the Work Session Meeting of the Eden Town Board on June 23, 2004.

3. Reappointment

Supervisor Nellis read correspondence from Patrick Howard, Police Chief requesting reappointment of Re’ Biastre to the recently created part-time police officer position as discussed at the May 12, 2004 Town Board meeting. The position is necessary due to an injury a current officer has sustained. This position will cover scheduled shifts and will not increase the current budget.

MOTION was made by Supervisor Nellis to reappoint Re’ Biastre to cover scheduled shifts and will not increase the current budget; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

4. **Scheduling of Public Hearing to Amend the Town of Eden Zoning Code to allow additional uses by Special Use Permit in the Office Business Zoning District.**

Mr. Andrew C. Reilly, Town Engineer discussed the current situation regarding Zoning in the Hamlet specifically Office Business versus General Business. After much discussion it was decided by the Town Board to move this item to “Old Business” for a future Town Board meeting.

5. **Proposals on Telecommunications (Phone) Services – MCI/Broadview Networks**

Supervisor Nellis tabled this item to be moved to “Old Business” for discussion at a future Town Board meeting

6. **Technology Policies – Help Desk Application – Internet Policy**

Supervisor Nellis tabled this item to be moved to “Old Business” for discussion at a future Town Board meeting.

7. **Off –Road Drainage**

Supervisor Nellis read correspondence from Ron Maggs, Off Road Drainage Committee Chairperson regarding upcoming projects. The four projects for consideration are:

- | | |
|-----------|---|
| 2004-01 – | 2074 New Jerusalem Road; Mumford property; clean two culverts at 500’ each, leading to main ditch at road. Cost not to exceed \$3,500. |
| 2004-02 | 2146-2188 New Jerusalem Road; Anderson/Yager property; clean and move ditch and grade into field, clean approximately 100’ where pipe ends on Anderson’s property. Cost not to exceed \$4,000. |
| 2004-03 | Hemlock Road at Railroad Tracks; clean open ditch near Hemlock Road heading south for 400’. Unplug culvert on ditch running west/east. Cost not to exceed \$4,000. |
| 2004-04 | West Church Street at Railroad Tracks; clean from Ryther Creek to West Church Street along railroad tracks for approximately 200’ and clean from West Church Street toward Swartz Field along railroad tracks for 200’. Cost not to exceed \$3,800. |

The total cost for the four projects is not to exceed \$15,300 and the annual operating budget is \$20,000. This work would be contracted out, not done by the Eden Highway Department.

MOTION was made by Councilman Walker to approve \$15,300. not to exceed \$20,000. which is the annual budget of the Drainage Committee; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

8. Preparedness Plan

Supervisor Nellis received updated information from Robert Stickney regarding a preparedness plan that was presented.

MOTION was made by Councilman Vacco to adopt the updated plan that was presented; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

9. Disaster Coordinator Report

Supervisor Nellis received a report regarding a new telephone system to be located in the Eden Fire Hall with an intercom to the Police Department, Emergency Squad Building and the Fire Hall. All department head were contacted and are in agreement that the system is necessary. The cost of the system is \$646.00.

MOTION was made by Councilman Vacco to accept the proposal for a new telephone system at a cost of \$646.00; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor’s Report:

Supervisor Nellis extended an invitation from the Legislative Commission for a meeting to be held on Wednesday, June 16, 2004 regarding Environment and Energy.

Supervisor Nellis made note of the Alumni Weekend, this weekend June 11th and 12th with numerous activities being held in the Town.

Hearing of Visitors:

Ruth Szalasny, 3048 Belknap Road
Maureen Hubbard, 2044 Derby 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 9:07 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting
at 11:00 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk