

MINUTES

REGULAR MEETING – EDEN TOWN BOARD

2795 EAST CHURCH STREET

EDEN, NEW YORK

JULY 14, 2004

7:30 P.M.

TOWN BOARD MEMBERS PRESENT:

GLENN R. NELLIS	-	SUPERVISOR
MARY LOU PEW	-	COUNCILWOMAN (<i>Deputy Supervisor</i>)
EDWARD KRYCIA, JR	-	COUNCILMAN
VINCENT V. VACCO	-	COUNCILMAN
TIMOTHY J. WALKER	-	COUNCILMAN (<i>Absent</i>)

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
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
Steven Waldvogel	-	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 June 9, 2004; there were none.

MOTION was made by Councilman Krycia to approve the Town Board Minutes of June 9, 2004 as presented: seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of 6/23/2004; Councilman Krycia made reference to Item 2, Internet Policy and Help Desk Application noting that the motion was made upon careful tracking of the changes made at that Town Board Meeting and careful review by Attorney Trask and that a “corrected” copy would be made available after changes were made. Councilwoman Pew stated she would make available a corrected copy.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of June 23, 2004 with the changes noted above; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

There were none.

Budget Transfers:

Supervisor Nellis read the following “Budget Transfers” from Account D2770 to D5110.4 for Piping Permits #1-#20 in the amount of \$12,606.27.

MOTION was made by Councilman Krycia to approve the “Budget Transfers”; seconded by Councilwoman Pew; 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
General Fund	382-457	\$60,843.96
Highway Dept. Fund	147-179	\$24,099.94
Fire Dept. Fund	144-164	\$19,112.05
Recreation Dept. Fund	66-93	\$7,040.94
Refuse and Garbage Fund	8-9	\$38,152.09

Street Lights Fund	14-17	\$4,431.99
Water Fund	20-22	\$4,738.66
Trust & Agency Fund	--	
Capital Fund	9-11	\$44,332.02
Community Development	--	

MOTION was made by Councilman Vacco 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 June 2004 were presented by Paul Shephard, Eden Emergency Squad; Councilman Vacco for 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.

Kevin Schoenthal, East Eden Fire Chief requested the Town Board add the names of Carl Robinson and John Wilder to the East Eden Fire Department active roster pending completion of department physical and background checks.

MOTION was made by Councilwoman Pew to add the above-mentioned names pending physical exams and background checks; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Kevin Schoenthal, East Eden Fire Chief requested the Town Board remove the name of Mark Dole from the East Eden active roster.

MOTION was made by Councilwoman Pew to remove the name of Mark Dole from the active roster of the East Eden Fire Department; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Councilman Vacco, reporting for Paul Laing, Eden Fire Chief requested the Town Board to remove from the active roster James Schwanz and Ronald Reisch and to thank them for the time they served to the Town of Eden.

MOTION was made by Councilman Vacco to remove the names of James Schwanz and Ronald Reisch from the active roster of the Eden Fire Department; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Councilman Vacco, reporting for Paul Laing, Eden Fire Chief requested the Town Board add to the active roster the name of Kristen Yager of 8322 Evelyn Drive.

MOTION was made by Councilman Krycia to add Kristen Yager to the active roster of the Eden Fire Department pending physical and background checks; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Mary Jo Hultquist, Town Clerk requested permission to purchase a new Sharp copier to replace the Xerox copier at a County bid price of \$711.00, which funds are available in the Town Clerk’s 2004 budget.

MOTION was made by Councilman Vacco to allow the Town Clerk to purchase a new copier at a price of \$711.00; 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 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 Councilwoman Pew to open the Public Hearing for Proposed Local Law #5-2004 – Amendments to the OB Office Business District; 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 #5-2004
Amendments to the OB Office Business District

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 the Office Business District along Rt. 62 in the hamlet. The Eden Planning Board recommended that the west side of the area be changed to General Business. The Town Board would prefer to amend the Local Law to make the necessary changes in the Office Business District as follows:

225-16 OB Office Business District

A. Uses Permitted by Right:

Delete: (1) Same as 225-13A (2) and (3). Bulk regulations for the uses indicated are the same as found in the district from which referenced.

Add: (1) Places of worship, including Parish houses. Use Group a.

Amend (2) to read: Local office, including but not limited to realtor, notary public, bondsman, attorney, engineering, architectural, educational and scientific research, accounting, and insurance. Use Group a.

Section (3) - Will remain unchanged.

Section (4) - Will remain unchanged.

Add: (5) Small local retail shops (in existing structures or new buildings of less than 2,500 square feet first floor dimension): Floral shops, craft stores, bookstores, sewing & knitting supplies, and tourism related materials. Other than these (and those listed in the following special use permit section), those uses listed in the LB and GB district are specifically excluded from this zone.

B. Uses by Special Permit of the Town Board

Section (1) – Will remain unchanged.

Delete (2): Same as 225-10B (12) and (13). Bulk regulation for the uses indicated are the same as found in the district from which referenced. (added 10-23-1985 by L.L. No. 3-1985; amended 6-13-1990 by L.L. No. 3-1990)

Add (2): Other small (less than 2500 square feet first floor dimensions or existing structure) retail or offices of a similar nature as in the uses listed by right. This specifically excludes banks, restaurants, and any use that requires a “drive through” facility.

Sections C, D, E, F, and G will remain unchanged.

The following citizens spoke:

Mr. Elton Palmerton, 8495 N. Main Street

Supervisor Nellis questioned the “bookstore” classification asking whether or not that included “adult bookstores” and Attorney Trask stated that a bookstore is a bookstore, they are not defined in the code.

Supervisor Nellis requested Attorney Trask to draft a proposal regarding “Adult Bookstores” for the August 11, 2004 Town Board Meeting.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the Public Hearing at 8:15 P.M.

8:15 P.M.

Public Hearing

Request from Schreiber & Winkelman to amend their Special Use Permit to allow outdoor storage of vehicles at their Mini 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.

Supervisor Nellis read correspondence from the Eden Planning Board, that after extensive discussion by the Planning Board a motion was made and unanimously carried to recommend to the Town Board **not** to allow Mr. Schreiber to amend his Special Use Permit to allow for outdoor storage, which correspondence is available at the Town Clerk's office to be viewed during regular office hours.

The following citizen had questions/concerns:

Frank Mantione, 2722 Kulp Road, agreeing with the Planning Board's recommendation.

The following citizens spoke in favor of the request by Mr. Schreiber:

Edward Krycia, Sr., 2746 Second Street
Elton Palmerton, 8495 North Main Street
Robert Stickney, 2718 Lourdes Drive
Wilbert Smutz, 3094 East Church Street
Ron Maggs, 2168 Hemlock Road
Joseph Klug, 7700 Bley Road

All persons desiring to be heard, having been heard, Supervisor Nellis closed the Public Hearing at 8:30 P.M.

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

Supervisor Nellis opened the Regular Meeting of the Eden Town Board at 8:30 P.M.

Note: After much discussion it was decided by the Town Board to recommend a decision of the amendments to the Special Use Permit for Schreiber & Winkelman to allow outdoor storage of vehicles at their Mini Self Storage Facility at 8750 South Main Street to be moved to “Old Business” to be discussed at the August 11, 2004 Town Board Meeting.

New and Unfinished Business:

1. **Recreation Employees**

-

Supervisor Nellis read correspondence from Susan Brass, Recreation Director and the Recreation Advisory Board recommending the following staff appointment to fill one of the two remaining positions for a CIT:

Jane A. Leous, CIT at \$5.75 an hour at the Eden Pool

(Retroactive to June 29, 2004)

MOTION was made by Supervisor Nellis to approve the above-mentioned staff appointment; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Susan Brass, Recreation Director and the Recreation Advisory Board also recommended the following staff pay adjustments, which are within the Recreation Department budget, due to two lifeguards receiving their Water Safety Instruction (WSI) certification:

Casey Sickau to \$7.00 an hour and Amber DeCarlo to \$6.90 an hour.

(Retroactive to June 28, 2004)

MOTION was made by Supervisor Nellis to approve the above-mentioned staff pay adjustments; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Note: These are not new or additional positions, simply additions to remaining openings not previously filled and within the budget for this program.

2. **Resolution Accepting 15' Walkway Easement in Weller Tract II Subdivision**

-

Supervisor Nellis read the following resolution:

**RESOLUTION ACCEPTING DEDICATED
15' WALKWAY EASEMENT IN THE
WELLER TRACT II SUBDIVISION**

WHEREAS, in 1988 the Town of Eden Planning Board gave final approval to the Weller Tract II Subdivision; and

WHEREAS, Map Cover 2513/2550 of Weller Tract II shows a 15 foot walkway easement between lots 39 and 40 on Merrill Place; and

WHEREAS, both the Town of Eden and the Eden Central School District are desirous of a walkway directly from the Weller Subdivision to Eden Central School property;

NOW, THEREFORE BE IT RESOLVED that the Eden Town Board officially accept this 15 foot walkway easement as it appears on the filed Map Cover for the Weller Tract II Subdivision and that a copy of this resolution be recorded in the Erie County Clerk's office.

Note: After much discussion it was decided by the Town Board to table approval of this Resolution to "Old Business" to be discussed at the August 11, 2004 Town Board Meeting.

3. **Special Use Permit for the Don Nowak Property-8259 N. Main Street**

-

Supervisor Nellis stated that a memo has been received from the Eden Planning Board, recommending approval of the Special Use Permit for Mr. Nowak to operate a trailer sales business at 8259 N. Main Street. Mr. Nowak was required to submit a revised site-plan to the Building Inspector indicating dedicated space (approximately 2000 square feet) solely for the above mentioned use and to provide a signed contract to perform the agreed upon landscaping (a

requirement of the original site plan approval, that set a 6/1/04 completion deadline). Supervisor Nellis stated that he has been advised that in the file that Classic Image Landscape has been designated at a cost of \$6,534.80. The third requirement was that the Special Use Permit be renewable annually.

Attorney Trask stated that no deadline has been set for landscaping to be done, just that the Town has a copy of a signed contract. Attorney Trask suggested that the Town Board require some additional conditions are required to make sure that the landscaping actually gets done.

MOTION was made by Supervisor Nellis to approve the Special Use Permit for the Don Nowak property at 8259 N. Main Street to operate a trailer sales business with the condition of the completion of the landscaping by 8/31/2004 or the Special Use Permit will be automatically revoked or will be in violation and also complete a Negative Declaration; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

4. **Open Space Index Amendments/Map**

-

Supervisor Nellis recognized Frank Manton, Chairman of the Eden Conservation Advisory Council who is requesting that the Town Board accept the 5 Recommendations to the Town of Eden Open Space Index Map that have been previously discussed through Public Hearing and Town Board Meetings.

MOTION was made by Supervisor Nellis to accept the 5 Recommendations presented by Mr. Manton to the Open Space Index Map; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

5. **Maintenance Contract – Town Hall Elevator**

-

Supervisor Nellis requested the Town Board table the Maintenance Contract for the Town Hall Elevator to “Old Business” to be discussed at a future Town Board meeting.

6. **Recreation Contract – New Equipment**

-

Supervisor Nellis requested the Town Board table the Recreation Contract for New Equipment to “Old Business” to be discussed at a future Town Board meeting.

7. Two Week Summer Day Camp Request

-

Supervisor Nellis received correspondence from the Eden Planning Board regarding a request from Mr. Russ Gugino, consultant for the Reverends Mulheisens and Camp Mary Glen, submitting a plan to utilize the Camp for 2 weeks during the month of August 2004 for a “Day Camp Use Only”, while the organizations continues to work on a full site-plan to submit for next years camp season. Approximately 25 children would be brought to the camp via bus transportation to spend the day. Mr. Gugino assured the Planning Board that none of the buildings of facilities (such as the in-ground pool) would be utilized. There is a stocked pond on the premises that would be utilized for fishing, paddle boating and canoeing, but definitely not for swimming. Portable bathroom and sink facilities would be set up on site. No on-site food preparation would occur. One meal per day would be brought in to serve.

The Eden Planning Board recommended to the Town Board to issue a “special event” temporary permit for the camp to operate for 2 weeks only during the month of August, 2004 with the following specific requirements:

1. No Overnight stays (9:00 A.M. – 4:00 P.M). Timetable suggested.
2. Portable bathroom and sink facilities are utilized.
3. No usage of any current buildings (they must be locked).
4. Proof of adequate insurance, eliminating any liability to the Town of Eden.
5. Eden Fire and Rescue determine whether or not the 15’ access road would be adequate during possible emergencies.
6. The Camp Mary Glen meets all Public Health and Safety issues.

The Town Board continued to discuss the possibility with Attorney Trask

explaining that he had reviewed the situation and that the property has not been used as a camp for several years and while the property itself is in an Agricultural District, which allows camps with a Special Use Permit, the access to the camp comes through a Suburban Residential area and under our Zoning Code it states that if the access to the area is not zoned for the ultimate use, it is a problem and would require a variance from the Zoning Board of Appeals to be legal for that use. Secondly, there is a site-plan review that is required. Finally, the Special Use Permit ultimately will be required. Attorney Trask stated that after quite a bit of research it does fit well within the “camp” definition, which definitely requires a Special Use Permit. The Special Use Permit comes from the Town Board, Site-Plan approval comes from the Planning Board, re-zoning issues, it is either going to be re-zoned by the Town Board or a use variance from the

Zoning Board of Appeals. Attorney Trask stated that he had spoken to Mr. Sorgi, Attorney working with Mr. Gugino on some of the zoning issues and he referred to Town Law, section 274-b that refers to the Special Use Permit authority to another board, like a Planning Board. The delegation of authority allows that permitting board to waive some of the procedural requirements of the process. In the Town of Eden the Town Board retains the Special Use Permit authority and has no waiver authority within that section of the code, which is section 225-46 of the Town of Eden Zoning Code. There is no apparent quick track way to approve this request.

Discussion ensued between the Town Board members, the individuals present representing the Creative Youth Leadership Program and residents. Mr. Gugino stated for the record that the purpose of the camp, which was started by Father Nelson Baker, named Camp Victory for the Baker Boys, was to help troubled kids to have a life-changing experience.

There were many suggestions offered, specifically another site in Eden, possibly the Boys and Girls Club for this year only, but unfortunately there is not enough time to sufficiently approve the necessary requirements to have the Day Camp at Camp May Glen by August, 2004.

8. **Clarksburg County Club – New Oregon Road Frontage – No Parking Request**

-

Supervisor Nellis recognized David Rumsey, 3728 Yochum Road, present at the Town Board meeting with regard to correspondence from William J. Magavern, II, regarding Clarksburg County Club, Inc., New Oregon Road Frontage requesting an ordinance prohibiting parking along both sides of New Oregon Road along its property. It was requested that a Public Hearing be scheduled for August 11, 2004 at 8:00 P.M. Attorney Trask suggested making a referral to the Police Department for any information they have regarding the parking situation in that area because the focus is the public safety issue.

MOTION was made by Supervisor Nellis to set a Public Hearing for August 11, 2004 at 8:00 P.M. regarding a “No Parking” request by the Clarksburg County Club, Inc.; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

9. **Resolution – Support for a Community Preservation Fund**

-

Supervisor Nellis requested the Town Board table the Resolution to “Old Business” to be discussed at the August 11, 2004 Town Board meeting.

Supervisor's Report:

Supervisor Nellis reported that he has received from Frank Mantione, Conservation Council Chairman a report regarding a pilot program for the State of New York for the CEM, Community Environmental Management program.

Hearing of Visitors:

There were none.

Adjournment:

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

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 10:30 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 11:10 P.M.

Respectfully submitted by,

Mary Jo Hultquist

Town Clerk