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**MINUTES**

**REGULAR MEETING – EDEN TOWN BOARD  
2795 EAST CHURCH STREET  
EDEN, NEW YORK  
AUGUST 11, 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  
Mike Felschow - Lieutenant  
Paul Laing, Jr. - Eden Fire Chief

**OTHERS PRESENT:**

William Trask - Town Attorney  
Mary Jo Hultquist - Town Clerk  
Anna M. Knack - Administrative Assistant  
Steven Waldvogel - Engineer-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 July 14, 2004; there were none.

**MOTION** was made by Councilman Walker to approve the Town Board Minutes of July 14, 2004 as presented: seconded by Councilman Vacco; 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 A3120.2 for Bulletproof Vest grant money received in the amount of \$800.00, from Account A2001 to A7140.4 for Playground field trip to Darien Lake in the amount of \$1,005.00 and from Account A2770 to A6989.4 for Refunds for Façade grant program applications in the amount of \$1,250.00.

**MOTION** was made by Councilman Walker to approve the above-mentioned “Budget Amendments”; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Budget Transfers:**

Supervisor Nellis read the following “Budget Transfers” from Account A1990.4 to A1420.4 for additional legal fees in the amount of \$3,000.00

**MOTION** was made by Councilman Krycia to approve the above-mentioned “Budget Transfer”; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – Councilman Walker; 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. Voucher #503, in the amount of \$416.00 will not be paid at this time.

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	458-520	\$38,746.23
Highway Dept. Fund	180-208	\$78,122.42
Fire Dept. Fund	165-182	\$4,656.95
Recreation Dept. Fund	94-112	\$6,132.92
Refuse and Garbage Fund	10	\$27,200.41
Street Lights Fund	18-19	\$3,077.11
Water Fund	23-26	\$5,594.06
Trust & Agency Fund	--	--

Capital Fund	12-15	\$10,921.12
Community Development	--	--

**MOTION** was made by Councilman Krycia to approve the Audit of Bills with the noted correction; seconded by Councilman Vacco; “Ayes” – Nellis, Krycia, Vacco; Opposed? – None; Abstain? – Councilman Walker abstained approval for Voucher #486; Motion carried.

**Departmental Reports:**

Department reports for the month of July 2004 were presented to the Town Board. All reports are on file in the Town Clerk’s office.

Mary Jo Hultquist, Town Clerk requested the Town Board approve the consolidation of Polling Places for the September 14, 2004 Primary Election, as is normal procedure.

**MOTION** was made by Councilman Vacco to consolidate the Polling Places for the September 14, 2004 Primary Election; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**New and Unfinished Business:**

1. **Proposed Local Law Amending the Office Business District Zoning**

Supervisor Nellis read the following resolution:

**WHEREAS,** the Town of Eden has promulgated a local law amending the Town of Eden Zoning Law, which makes changes to the OB-Office Business District by allowing small retail and office uses, and

**WHEREAS,** in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act-SEQRA) of the Environmental Conservation Law, the Eden Town Board has reviewed the proposed zoning amendment, and

**WHEREAS,** the Town has held a public hearing on these modifications, and determined that they are in accordance with the Town’s Comprehensive Plan, and

**WHEREAS,** the zoning modifications will not adversely affect the natural resources of the State and/or the health, safety, and welfare of the public, and are consistent with social and economic considerations.

**NOW, THEREFORE BE IT RESOLVED** that the Town of Eden has determined that the proposed modifications to the Eden Zoning Law, are not anticipated to result in any significant effect on the environment, and that a Negative Declaration (Notice of Determination of Non-Significance) is hereby issued.

**BE IT FURTHER RESOLVED** that the Supervisor be authorized to sign the Environmental Assessment Form.

**MOTION** was made by Councilman Walker to approve the resolution; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis then requested the Town Board consider adoption of proposed Local Law #5-2004, A Local Law amending the Town of Eden Zoning Law.

**MOTION** was made by Councilman Walker to adopt Local Law #5-2004 as presented; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

2. **Proposed Special use Permit Amendment – Self Storage Facility – Schreiber Property**

Supervisor Nellis read the following resolution:

**WHEREAS**, the Town of Eden issued a Special Use Permit for the operation of a mini self-storage facility and Contractor’s Plaza at 8750 South Main Street, on June 11, 2003, and

**WHEREAS**, the applicant has requested to amend that Special Use Permit to allow outdoor storage of vehicles, and

**WHEREAS**, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act-SEQRA) of the Environmental Conservation Law, the Eden Town Board has reviewed the proposed SUP Amendment, and

**WHEREAS**, the Town held a public hearing on the SUP Amendment, and

**WHEREAS**, the SUP Amendment will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public, and is consistent with social and economic considerations.

**NOW, THEREFORE BE IT RESOLVED** that the Town of Eden has determined that the proposed SUP Amendment is not anticipated to result in any significant effect on the environment, and that a Negative Declaration (Notice of Determination of Non-Significance) is hereby issued.

**BE IT FURTHER RESOLVED** that the Supervisor be authorized to sign the Environmental Assessment Form.

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

Supervisor Nellis requested the Town Board consider a motion to approve the Proposed Special Use Permit Amendment.

**MOTION** was made by Councilman Walker to approve the SUP Amendment as presented subject to annual renewal commencing 1/1/2005, based on the site plan presented to the Planning Board showing a limited area of outdoor storage and limited to registered DMV vehicles with valid registration; 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 Krycia; 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 for Proposed Local Law #6-2004 – Prohibited Parking on a portion of New Oregon Road in the Town of Eden; seconded by Councilman Krycia; 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 #6-2004**  
**Prohibited Parking on a portion of New Oregon Road**  
**In the Town of Eden**

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

Supervisor Nellis explained the parking problems on New Oregon Road and that correspondence had been received from Clarksburg Country Club regarding the situation.

There were no comments from citizens present.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the Public Hearing at 8:06 P.M.

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

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

Supervisor Nellis opened the Regular Meeting of the Eden Town Board at 8:06 P.M.

**Note:** After much discussion it was decided by the Town Board to recommend a decision of Proposed Local Law #6-2004 – Prohibited Parking on a portion of New Oregon Road in the Town of Eden be moved to “Old Business” to be discussed at the September 8, 2004 Town Board Meeting.

3. **Discussion/Consideration – Changing Conservation Advisory Council to a Conservation Board**

Supervisor Nellis received correspondence from Frank Mantione, Chairman of the Conservation Advisory Board regarding upgrading the Eden Conservation Advisory Council to Board status. Doing so would permit board review of development in primary conservation areas. The Conservation Advisory Council has complied with Article 12-F by completing and prioritizing an Open Space Index that has been accepted by the Town of Eden legislative body and therefore has met the legal requirements for upgrading to board status. Also, granting the Conservation Advisory Council board status would not change its advisory capacity, i.e. upgrading would not entail giving the board decision-making powers; they would remain advisory only.

The following resolution was offered:

**TOWN OF EDEN RESOLUTION  
AUTHORIZING THE FORMATION OF A CONSERATION BOARD**

**WHEREAS**, the local legislative body of any city, town or village, which has created a conservation advisory council may, by resolution, re-designate such council as a conservation board provided such council has prepared and submitted to the local legislative body the conservation open area inventory and map, which are accepted and approved by the local legislative body as the open space index of the municipality; and

**WHEREAS**, the Eden Town Board has accepted and approved the open area inventory and map prepared by the Conservation Advisory Council and ha adopted it as the open space index of the Town of Eden;

**NOW, THEREFORE** in accordance with General Municipal Law, Article 12-F Conservation Advisory Councils and Conservation Boards, Section 239-y Designation of council as conservation board, the Eden Town Board hereby re-designates the Eden Conservation Advisory Council as the Eden Conservation Board; and

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to Erin M. Crotty, Commissioner of the New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233 within thirty days of its adoption.

**MOTION** was made by Councilman Walker to designate the Conservation Advisory Council as a Conservation Board in accordance with General Municipal Law Article 12-F, subsection 239-y and that written notice of the creation be sent to New York State Department of Environmental

Conservation within 30 days; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Note:** Frank Mantione, Chairman acknowledged several members of the Conservation Board present at tonight’s meeting, thanking them for being at tonight’s meeting. Present was Russell Barton, Lamont Beers, Mary Jane Bolo, Don Suchan and Jack Cuddihy.

4. **Resolution Accepting Pedestrian Walkway from Merrill Place to Schoolview**

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Councilman Walker read the following resolution:

**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 Track 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.

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

**Discussion:** Supervisor Nellis further discussed the question of insurance and maintenance. A memo was received from Ann Knack, Administrative Assistant regarding insurance stating that M & W Agency, specifically Selective Insurance (our insurance carrier) will provide coverage for this walkway at no extra charge. They would require, however, that the walkway be graded-tarred to a smooth path. It was also noted that the Eden Highway Department would be responsible for maintenance on a seasonal basis, specifically snow plowing by the Recreation Foreman, Scot Christiansen.

Councilman Krycia discussed the question of paving the path. A memo dated July 12, 2004 had been received from Ron Maggs, Highway Superintendent regarding paving the path at a cost of approximately \$7,500., assuming the path would be 220’ long x 5’ wide (1,100 square feet @ \$7.00 per square foot).

**MOTION** was made by Supervisor Nellis to approve the payment to pave the pedestrian walkway from Merrill Place to Schoolview in the amount of \$7,500; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None;

5. **Setting of a Public Hearing on Classification of Adult Bookstores**

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Attorney Trask stated that samples of legislation had been gathered from Towns in New York State and will be circulated to the Town Board and Planning Board to review and be discussed at a future Town Board Meeting. The change will involve an amendment to the Zoning Law, identifying a district where this type of use would be permitted, and identifying what types of permits would be required.

6. **SEQR and Negative Declaration Resolution – Don Nowak Special Use Permit**

Supervisor Nellis read the following resolution:

**WHEREAS**, the Town of Eden has received a request from Don Nowak for a Special Use Permit at 8259 North Main Street to operate a trailer sales business; and

**WHEREAS**, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Eden Town Board has reviewed the proposed Special Use Permit Application; and

**WHEREAS**, the Town held a public hearing on the SUP Application, and received a recommendation from the Planning Board; and

**WHEREAS**, the SUP Application will not adversely affect the natural resources of the State and/or health, safety and welfare of the public, and is consistent with the social and economic considerations.

**NOW, THEREFORE BE IT RESOLVED** that the Town of Eden has determined that the proposed SUP request is not anticipated to result in any significant effect on the environment, and that a Negative Declaration (Notice of Determination of Non-Significance) is hereby issued.

**BE IT FURTHER RESOLVED**, that the Supervisor be authorized to sign the Environmental Assessment Form.

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

7. **Resolution on Support for a Community Preservation Fund**

Supervisor Nellis read the following resolution:

**WHEREAS**, the Eden Town Board supports the agricultural industry, the protection of farmland, intelligent development of rural communities, the Right To Farm Act and Better ways to coordinate between various levels of government on development and agricultural issues, and

**WHEREAS**, it was stated publicly at a June 16, 2004 meeting of Erie County Legislators and Town Supervisors and representatives from Erie County Legislature is committed to working with local towns and villages to secure more state and federal funding to protect farmland and help the agricultural industry in Erie County, and



**WHEREAS**, one solution to providing needed funds is found in legislation before the New York State Assembly and Senate (S.6949/A.10053), which if approved would create a fund for the implementation of plans for preservation of community character, including the protection of farmland, and

**WHEREAS**, if approved this fund would allow towns to acquire interests or rights in real property for the preservation of community character, to establish a bank pursuant to a transfer of development rights program and to provide management and stewardship for such interests and rights,

**NOW, THEREFORE BE IT RESOLVED** that the Eden Town Board is committed to helping the agricultural industry, the protection of farmland, intelligent development of rural communities, the Right to Farm Act and better ways to coordinate between various levels of government, and

**BE IT FURTHER RESOLVED** THAT THIS honorable Body asks the Governor and the New York State Legislature to consider passing (S.6949/A.10053), which would create a community preservation fund, and

**BE IT FURTHER RESOLVED** that certified copies of this resolution be forwarded to Governor George Pataki, the Western New York Delegation to the New York State Legislature, the Supervisors of Amherst, Alden, Aurora, Boston, Brant, Cheektowaga, Clarence, Colden, Collins, Concord, Elma, Evans, Hamburg, Holland, Lancaster, Marilla, Newstead, North Collins, Orchard Park, Sardinia and Wales, the Erie County Commissioner of Environment and Planning, the New York State Commissioner, Department of Environmental Conservation and the President of the Erie County Farm Bureau.

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

8. **Request for a Special Use Permit to convert an office building into a Residential Unit at 2679 Hemlock Road**

Supervisor Nellis read correspondence from Richard E. Minekime regarding a request to the Town Board to consider a Special Use Permit to convert an office building at 2679 Hemlock Road into a dwelling unit. The person occupying the unit would serve as caretaker and watchman of the properties located at the site. Correspondence was also received from the Eden Planning Board, which states the following:

“After reviewing the 1995 Town Board and Planning Board minutes that addressed Mr. Minekime’s prior request for a special use permit, the Planning Board referred to the S225-19 (B) (3) “One dwelling unit only on any lot for the exclusive use of an attendant, watchman or caretaker employee in connection with any permitted use on said lot” in an industrial zone. Using the language of the code, the Planning Board voted 3-2 to recommend the Town Board to approve the special use permit (the same recommendation from the 1995 request), with

a recommended condition that the Town Board require an annual renewal and proof that the resident is indeed an employee of the business occupying the storefront. The 2 opposing votes felt that the health and safety issues were still a concern in regard to children possibly occupying that space and should be considered by the Town Board.”

Mrs. Joyce Harms, 2677 West Church Street, voiced her concerns regarding the possibility of children being present at the site, which is near storage facilities that contain flammable materials.

After much discussion by the Town Board and residents present it was decided to set a public hearing, requiring Mr. Minekime be present and more background information be made available for the Town Board to review before that meeting.

**MOTION** was made by Councilman Walker to set a Public Hearing for September 8, 2004 at 8:00 P.M. for the purpose of discussing the request from Mr. Minekime to convert an office building into a Residential Unit at 2679 Hemlock Road; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

#### 9. Transfer of Bond Anticipation Note

Supervisor Nellis read the following resolution:

**WHEREAS**, the borrowing of funds in the form of Bond Anticipation Notes for construction of Water District No. 2 has yielded to date \$3,637.94 in interest; and

**WHEREAS**, the interest made on the BAN borrowing may only be applied to the principal and/or interest payment for Water District No. 2;

**NOW, THEREFORE BEIT RESOLVED** that the Eden Town Board hereby moves to transfer the sum of \$3,637.94 plus any additional accumulated interest earned through August 31, 2004 from the Capital Fund to the Consolidated Water District Fund Balance; and

**BE IT FURTHER RESOLVED** that this money will be applied against the Water District No. 2 Bond Interest payment due in 2005, thereby decreasing the amount needed to be raised by tax for this payment in the 2005 Water District Budget.

**MOTION** was made by Councilman Walker to approve the resolution; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

#### 10. Approval of Off-Road Drainage

Supervisor Nellis read correspondence from Ron Maggs, Committee Chairperson for the Off-Road Drainage Committee regarding the approved projects for 2004 with estimates for the 4 proposals. Ron Gier was the low bidder on the 3 proposals with Schreiber & Winkleman being low bidder on 1 proposal.

After much discussion it was decided to offer the following motion:

**MOTION** was made by Councilman Krycia to approve the low bid on all 4 proposals; seconded by Councilman Vacco; Ayes – Nellis, Krycia, Vacco; Opposed? – Walker; Abstain? – None; Motion carried.

### 11. Independent Service Provider Contracts

Councilman Walker stated that a motion was in order to authorize Supervisor Nellis to enter into two agreements with independent service provider.

**MOTION** was made by Councilman Walker to authorize Supervisor Nellis be allowed to enter into independent service provider contracts with the following two individuals, subject to contract approval of the Town Attorney:

**Charles Dias** – Computer Service Provider – working with Deputy Supervisor And Technology Committee – with an annual stipend of \$4,800.00.

**Michael Bolo** – Economic Development Specialist – working with the Town Supervisor and Economic Development Committee – with an annual stipend of \$4,800.00.

Both of these contract shall be effective July 1, 2004 with the annual stipend being prorated for time spent on these contracts as of that date.

Seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**MOTION** was made by Councilman Walker to approve Abstract #503 in the amount of \$400.00; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

### **Supervisor’s Report:**

Supervisor Nellis stated that the Erie County Water Authority will be holding their Annual Town Meeting on August 24, 2004.

### **Hearing of Visitors:**

Wilbert Smutz, 3094 E. Church Street  
Joe Klug, 7700 Bley Road

### **Adjournment:**

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

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 9:50 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