
MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
MARCH 9, 2005
7:30 P.M.**

TOWN BOARD MEMBERS PRESENT:

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

DEPARTMENT HEADS PRESENT:

Kristen Haight of Wendel - Town Engineer
Ronald C. Maggs - Superintendent of Highways
Patrick M. Howard - Chief of Police
Paul Shephard - Eden Emergency Squad
David A. Cole - Eden Fire Chief
Robert Pietrocarlo - Chairman Board of Assessors

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 7:40 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 February 9, 2005; there were none.

MOTION was made by Councilman Krycia to approve the Town Board Minutes of February 9, 2005 as presented; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

There were none.

Budget Transfers:

There were none.

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	80-138	\$76,320.67
Highway Dept. Fund	38-65	\$37,119.19
Fire Dept. Fund	23-55	\$10,367.91
Recreation Dept. Fund	10-18	\$6,005.59
Refuse and Garbage Fund	4-5	\$28,065.53
Street Lights Fund	2-4	\$4,445.02
Water Fund	6-9	\$10,476.33
Trust & Agency Fund	--	--
Capital Fund	5	\$1,182.00
Community Development	--	--

March 2005 Payables

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	892	\$4.95
Highway Dept. Fund	--	--
Fire Dept. Fund	314-317	\$2,465.00
Recreation Dept. Fund	--	--
Refuse and Garbage Fund	--	--
Street Lights Fund	37	\$553.16
Water Fund	--	--
Trust & Agency Fund	--	--
Capital Fund	--	--

Community Development	--	--
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MOTION was made by Councilwoman Pew 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 February, 2005 were presented by Paul Shephard, Eden Emergency Squad; David Cole, Eden Fire Chief; Patrick Howard, Eden Police Chief; Ronald Maggs, Superintendent of Highways; Kristen Haight for Andrew Reilly, Town Engineer; William Trask, Town Attorney; Mary Jo Hultquist, Town Clerk; Supervisor Nellis for Scott Henry, Zoning Code Enforcement Officer; Councilman Vacco for Susan Brass, Recreation Director; Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

David Cole, Eden Fire Chief requested approval to apply for the 2005 FEMA Grant that requires 10% matching money. Application for the Assistance to Firefighters Grant Program will be available starting March 7, 2005 and ending April 8, 2005.

MOTION was made by Councilwoman Pew to approve the request from David Cole, Eden Fire Chief to apply for the 2005 FEMA Grant that requires 10% matching money for the Assistance to Firefighters Grant Program not to exceed \$20,000; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

David Cole, Eden Fire Chief requested approval for \$2,738.00 for 6 (six) members of the Eden Fire Department to attend the Firehouse Training Expo in Baltimore Maryland on July 27- July 31, 2005.

MOTION was made by Councilwoman Pew to approve the amount of \$2,738 for 6 (six) members of the Eden Fire Department to attend the Firehouse Training Expo in Baltimore Maryland on July 27-July 31, 2005; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Pat Howard, Chief of Police asked permission from the Town Board to purchase a new patrol car, as previously discussed. The new vehicle would be a 2004 Ford Expedition with a cost of \$22,725. This includes a trade-in of \$6,100 for the 2003 Crown Victoria and also includes the cost to transfer the equipment from our current marked unit. Mr. Howard stated that the quote received is less than the New York State bid list.

MOTION was made by Councilman Vacco to approve the purchase of a New Police Car, a 2004 Ford Expedition in the amount of \$22,725; seconded by Councilman Krycia; All “Ayes”; Oppose? – None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent requested the Town Board set a Bid Opening date for March 29, 2005 at 10:00 A.M. in the Town Clerk's office for the purchase of a rubber track excavator.

MOTION was made by Councilman Vacco to set a Bid Opening date for March 29, 2005 at 10:00 A.M. in the Town Clerk's office for the purchase of a rubber track excavator; seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent requested the Town Board declare the 1999 New Holland 555E Rubber Tire Backhoe surplus and be sold on E-bay and/or Machinery Trader with the revenue to be used toward replacement machine.

MOTION was made by Councilman Vacco to declare the 1999 New Holland 555E Rubber Tire Backhoe surplus and to be sold on E-bay and/or Machinery Trader; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent requested up to \$20,000 from the Equipment Reserve Account D9950.9 for the purchase of a used rubber track excavator, subject to Permissive Referendum.

MOTION was made by Supervisor Nellis to expend funds from the Highway Capital Equipment Reserve fund of the Town of Eden, a sum not to exceed \$20,000, subject to Permissive Referendum; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Mary Jo Hultquist, Town Clerk requested permission to attend the annual New York State Town Clerk's Association Conference to be held in Buffalo, New York on April 17, 2005 through April 20, 2005.

MOTION was made by Councilman Vacco for permission to Mary Jo Hultquist, Town Clerk to attend the New York State Town Clerk's Association Conference to be held in Buffalo, New York from April 17-20, 2005; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

New and Unfinished Business:

1. Naming of Negotiating Team for new Municipal Trash and Recycling Contract

Supervisor Nellis stated the contract with BFI is up in September and requested that the former negotiating team of Councilman Walker and Councilman Vacco would be interested in negotiating another contract. Councilman Vacco agreed and Councilman Walker, absent at this meeting, had been contacted previously.

MOTION was made by Councilwoman Pew to name Councilman Walker and Councilman Vacco the negotiating team for the new Municipal Trash and Recycling Contract; seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

2. Appointments/Reappointments

Supervisor Nellis recommended the following appointments/reappointments:

James Brass – Chairman-Recreation Advisory Board for 1 year
James Soulé– Vice Chairman-Recreation Advisory Board for 1 year
William Henry – Agriculture Advisory Committee – 2 years
Paul Laing - Agriculture Advisory Committee – 2 years

MOTION was made by Councilman Vacco to approve the above-mentioned appointments/reappointments; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

3. Recommendation of Recreation Advisory Board to offer the Backstop/Fencing at Swartz Field to the Eden Central School District

Supervisor Nellis stated that a recommendation had been received from Susan Brass, Recreation Director, to offer the backstop/fencing as a donation to the Eden Central Schools as it is no longer needed at Swartz Field.

After much discussion, the Town Board agreed to place this item on “Old Business” to be discussed at a future Town Board meeting.

4. Update of Water Projects

Steve Waldvogel, Project Engineer from R & D Engineering, along with Drew Eszak, Deputy Commissioner for Erie County Department of Environmental Conservation presented a “Memorandum of Understanding” from the Attorneys at Hodgson Russ, LLP (“Hodgson”) for Town Board consideration. Mr. Waldvogel stated that in essence we are asking the Town of Eden to agree with the other 7 (seven) Municipalities to authorize the Engineers, being R & D Engineering, the Attorneys being Hodgson Russ LLP, and the financial consultant being Munistat Services, Inc. to prepare a pre-application to the New York State Environmental Facilities Corporation for the regional project on behalf of all communities involved. In addition to that is the consideration of submitting a joint proposal to the New York State Department of Corrections for the Collins Correctional Facility, soliciting their financial assistance and participation in the Joint Water Project, and lastly it designates the Town of Eden as the Lead Agency for purposes of all joint applications and proposal submission. As such Lead Agency, the Town of Eden additionally is authorized to undertake any assessments and determinations necessary for compliance with State Environmental quality Review Act (SEQRA) regulations.

Each Municipality will pay R & D Engineering for joint professional services rendered in accordance herewith, fees and disbursements in an amount not to exceed the aggregate of \$4,500 (\$1000 for the Towns of Eden, Evans and Brant, and \$500 for the Town of North Collins and the Villages of Angola and North Collins). The Town of Collins and the Village of Gowanda will

not incur any expense but wish to demonstrate their support for the Project to the extent that the Department of Corrections chooses to participate in the Joint Water Project, and to preserve their right for future development.

R & D Engineering will divide the payments evenly among the three professional firms.

By this “Memorandum of Understanding”, the Municipalities intend to engage the necessary professionals to prepare an application to the NYS Environmental Facilities Corporation “EFC” and draft a proposal to the Department of Corrections in support of the Joint Water Project, without committing themselves in any manner to any other portion of the Joint Water Project.

Councilwoman Pew asked about the cost of \$1000 for each of the three towns. Mr. Waldvogel stated that the cost of \$1000 for each of the three towns was for the pre-application and preparation of the proposal to NYS Department of Corrections, and that will be shared equally among the three firms that make up the team that are preparing the pre-application and the proposal.

Supervisor Nellis then stated that these are two different documents. Mr. Waldvogel stated that yes these are two different documents that will be prepared.

Attorney Trask asked what role the Erie County Water Authority (ECWA) would play in all of this and why aren't they a party to this agreement. Mr. Waldvogel stated that they would most likely write a letter of support as part of the application. Mr. Trask asked if they are contributing any money and Mr. Waldvogel stated that at this point they are not. Mr. Trask asked if they are not the major push behind this project and Mr. Eszak stated that no, they are not the major push behind this, the major push behind this project is the failing wells and the need for the water upgrades in the Southtowns. Mr. Trask stated that he had a different understanding of the ECWA interest in the whole thing for the last two years. Mr. Eszak stated that in fact they do want new customers, they did share the cost of the original study, but the reason was the 4200 failing wells that was reported by the Erie County Health Department, there were health issues that had to be addressed. It was looked into on a regional basis because it was so expensive. It actually affected 22 towns, so now there are still 14 towns involved where water is affordable for the 14 towns. Mr. Trask asked if the ECWA held up some of our applications and approvals because they were waiting for this study that they helped fund. They are a major player in this. Mr. Waldvogel stated that what Mr. Trask is referring to is the reinforcement that the ECWA is insisting that the Town of Eden bill for the hamlet and their system before they approve any further water extensions in the Town. They are very supportive of this project, but have not offered any financial participation at this point.

Councilwoman Pew asked what other municipalities have taken formal action. Mr. Waldvogel stated that the only municipality that has taken formal action is the Town of Brant, by passing a resolution. This is the first request that is actually being formally presented, that communities pass or sign-off to the “Memorandum of Understanding” as a formal sign of their support. Mr. Eszak stated that they met with the Town of North Collins and the Village of North Collins prior to this meeting and presented them with the “Memorandum of Understanding” and are asking all municipalities to sign on during the month of March.

Councilwoman Pew asked if all the municipalities paid the fees and signed-on to the “Memorandum of Understanding” and the Collins Correctional Facility changed their mind, would the fee would be refundable. Mr. Waldvogel stated that the fees are for the actual work for preparing the application and the proposal and there is no guarantee that the proposal will be received and accepted. Mr. Eszak stated that the Correctional Facility is “under the gun” so to speak, to get quality and quantity of water to the facility. They have approached the ECWA before to get water to the facility. They are looking to get water because they want to be out of the water business. They are very interested in this project.

Councilwoman Pew asked what the role of the Erie County Health Department is playing in this project. Mr. Eszak stated that the Erie County Health Department has put a number of communities on notice that they have water quality problems and that this would help address some of those problems. They will participate and understand the extent of this project and they are allowing communities to take this and run its course before taking any other action.

Mr. Will Smutz, 3094 East Church Street, stated that the Town of Eden’s share in this study is \$1000, but what would the total cost for the whole program be to the Town of Eden. Mr. Waldvogel stated that the estimated cost would be on the order of \$10 million dollars, which would provide new water service for over 500 homes that don’t currently have water service. The average cost to the homeowner for debt service for water for the very first time is approximately \$500 - \$600 per year for those 500 people. Mr. Smutz then stated that Eden does not need water. Supervisor Nellis stated that at the time of the establishment of Water District No. 4, part of the agreement with the Erie County Water Authority was that ultimately we would pump water over from Sturgeon Point, to get another source of water over to the Town of Eden, in order to move forward with getting water to other parts of the Town of Eden.

Councilman Vacco stated that going through with this project would satisfy the demands of the Erie County Water Authority, if it goes through.

Mr. Waldvogel stated that ultimately this water district going forward will provide new water service to people who vote via referendum for it and to assume those costs, it will satisfy your reinforcement needs and it will do all that at a cost significantly lower than if you did it on your own. Other entities are participating and sharing those costs, the biggest one is the proposed participation of New York State Corrections.

Supervisor Nellis asked when the pre-application is due, and Mr. Waldvogel stated that the deadline is May 1, 2005. The plan is to submit a couple weeks ahead of that deadline. Early in June a draft will be issued, an intended use plan, which will be a listing of all projects that have been submitted to them for their consideration. That listing will rank each project and have a designation funding line above which projects are eligible for funding and below the projects are not eligible for funding.

Attorney Trask questioned the “EFC” requirement of some kind of a preliminary indicator from the community that, other than the elected board, that it wishes to seek this funding. Mr. Eszak stated that this is an intended use plan, not the actual application.

The approval that is needed tonight is to authorize Supervisor Nellis to sign the “Memorandum of Understanding”.

MOTION was made by Councilman Krycia to authorize Supervisor Nellis to sign the “Memorandum of Understanding”; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

5. Bid Results – Motor Fuels and Related Services

Ron Maggs, Highway Superintendent stated that the bid opening had been held on Wednesday, March 2, 2005 at 10:00 A.M. in the Town Clerk’s office and 2 bids were received. Mr. Maggs recommendation to the Town Board is to award to Page-Harms for Motor Fuels and Related Services having the lowest price. The other bid was received from R.O. Proper & Son, Inc. Copies of the bid results are available in the Town Clerk’s office.

MOTION was made by Councilwoman Pew to accept the recommendation of Ron Maggs, Highway Superintendent and award the bid to the lowest bidder, Page-Harms Oil Co., Inc.; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

6. Rezoning on West Church Street

Supervisor Nellis read the following resolution:

WHEREAS, the Town of Eden Planning Board reviewed an application from Vincent Vacco concerning the use of the property for a recreation field; and

WHEREAS, it was determined that the front of the property’s zoning, SR does not allow recreation fields, and

WHEREAS, the rear of the property is zoned RR which allows recreational uses and presently contains a golf driving range; and

WHEREAS, the Planning Board therefore recommended that the front of this property be rezoned to RR; and

NOW THEREFORE BE IT RESOLVED that the Town Board sets a Public Hearing for this potential rezoning for April 13, 2005 at 8:00 P.M.

MOTION was made by Supervisor Nellis to set the Public Hearing for April 13, 2005 at 8:00 P.M.; seconded by Councilwoman Pew; “Ayes”; Nellis, Krycia, Pew; Opposed? – None; Abstain? – Vacco; Motion carried.

Supervisor's Report:

Supervisor Nellis stated that Assemblyman Jack Quinn is proposing a Porno Law at the State level limiting the proximity of a Porno shop to schools.

Supervisor Nellis also reported that a meeting would be held Friday, March 11, 2005 at 9:30 a.m. at the Four Corners Café with representatives from the Towns of Eden, Evans, Brant and North Collins to discuss a possible grant proposal in conjunction with the Quality Communities Program. All invited to attend.

Hearing of Visitors:

There were none.

Adjournment:

MOTION was made by Councilwoman Pew 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 9:25 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