

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
APRIL 13, 2005
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
David A. Cole	-	Eden Fire Chief
Kevin R. Schoenthal	-	East Eden Fire Chief

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 7:42 P.M.

Pledge of Allegiance:

Supervisor Nellis led the assembly in the Pledge of Allegiance to the flag followed by a moment of silence.

Presentation:

Councilwoman Pew presented a resolution of support and gratitude to all Emergency Services in the Town of Eden for their help with the April 3, 2005 snowstorm.

Approval of Minutes:

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of March 9, 2005; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of March 9, 2005 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 March 23, 2005; Councilwoman Pew made a correction regarding her Son, David B. Pew, not David Pew, Jr.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of March 23, 2005 as presented; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

There were none.

Budget Transfers:

Supervisor Nellis read the following “Budget Transfer” from Highway Sick Bank to D5142.1 for Stegmeier accumulated time in the amount of \$19,534.64.

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

Budget Amendments:

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	139-209	\$84,497.46
Highway Dept. Fund	66-96	\$54,739.99
Fire Dept. Fund	56-84	\$36,079.71
Recreation Dept. Fund	19-33	\$6,966.29

Refuse and Garbage Fund	6-9	\$28,465.53
Street Lights Fund	5-7	\$4,668.26
Water Fund	10	\$5,042.07
Trust & Agency Fund	--	--
Capital Fund	6	\$1,687.00
Community Development	--	--

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

Departmental Reports:

Department reports for the month of March, 2005 were presented by Paul Shephard, Eden Emergency Squad; David Cole, 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 Scott Henry, Zoning Code Enforcement Officer; Councilman Vacco for Susan Brass, Recreation Director; Councilwoman Pew for Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

David Cole, Eden Fire Chief reported that the Eden Fire Department submitted a grant application to the Department of Homeland Security Assistance to Firefighters Grant Program for a 35lb Commercial Maytag washer for turn out gear. The cost of the washer is \$5,122.27 of which the Town of Eden is required to provide matching funds of 5% or \$256.11.

David Cole, Eden Fire Chief requested the Town Board add the name of Michael J. Hine, 2796 Oakland Drive to the active roster pending background checks and physical exam.

MOTION was made by Councilwoman Pew to add Michael J. Hine, 2796 Oakland Drive to the active roster pending background checks and physical exam; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

MOTION was made by Councilman Krycia to close the Regular Meeting of the Eden Town Board for public hearing; seconded by Councilwoman Pew; 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 Krycia to open the Public Hearing for Proposed Local Law #2-2005 to consider rezoning a portion of 2378 West Church Street from Suburban Residential to Rural Residential; seconded by Councilwoman Pew; 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 #2-2005
To consider rezoning a portion of 2378 West Church Street
From Suburban Residential to Rural Residential

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

At the regularly scheduled April Planning Board meeting, it was discussed and determined that the Planning Board would give conditional approval to the site-plan submitted by Mr. Vincent Vacco for the use of his property at 2378 West Church Street by the Eden Athletic Association for Soccer Fields, with the following requirements:

1. The parking lot and soccer fields must comply with the applicable setbacks as set forth in the bulk requirements in the appropriate zone.
2. All required site-plan and permit fees are paid in full.
3. Conditional upon the applicant obtaining appropriate zoning relief to accommodate the use by action of the Town Board
4. Submit a revised site plan indicating ALL uses of the property including agricultural uses if applicable.

Andrew Reilly, Town Engineer provided a map for review at the meeting.

Supervisor Nellis then asked for comments from the residents present.

Joe Klug, 7700 Bley Road asked the difference between Suburban Residential and Rural Residential. Mr. Reilly explained that Suburban Residential does not allow sports fields and Rural Residential does, otherwise they are fairly similar.

Mike Best, 2838 Florence Avenue and a member of the Eden Recreation Advisory Committee spoke in favor of the rezoning along with the Soccer Association

due to a shortage of soccer fields in the Town of Eden with 550 children enrolled in the soccer program.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the Public Hearing at 8:05 P.M.

MOTION was made by Councilman Krycia to close the Public Hearing and return to the Regular Town Board Meeting; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis opened the Regular Meeting of the Eden Town Board at 8:05 P.M.

Departmental Reports: (Continued)

Ron Maggs, Highway Superintendent requested permission from the Town Board to attend the annual Highway School June 6-8, 2005 in Ithaca, New York.

MOTION was made by Councilwoman Pew to allow Ron Maggs, Highway Superintendent to attend the annual Highway School June 6-8, 2005 in Ithaca, New York; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent requested \$115,000 from the Equipment Reserve Account D9950.9 for the purchase of a new mainline plow truck as per their replacement schedule, subject to Permissive Referendum.

MOTION was made by Supervisor Nellis to permit up to \$115,000 from the Equipment Reserve Account D9950.9 for the purchase of a new mainline plow truck as per their replacement schedule subject to Permissive Referendum; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent requested a bid opening date for Tuesday, May 3, 2005 at 10:00 A.M. in the Town Clerk’s office for the purchase of a new cab and chassis with tandem axle.

MOTION was made by Councilwoman Pew to approve the bid opening date for Tuesday, May 3, 2005 at 10:00 A.M. in the Town Clerk’s office for the purchase of a new cab and chassis with tandem axle; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent recommended to award the bid for the 1999 Rubber Tracked Excavator to Baschmann Services, Inc., at \$39,996, having the lowest price. One other bid was received from George & Swede Sales and Service at \$80,000.

MOTION was made by Councilwoman Pew to award the bid to Baschmann Services, Inc. at \$39,999 for the 1999 Rubber Tracked Excavator based on the recommendation of Ron Maggs, Highway Superintendent; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent requested a brief executive session at the conclusion of the Town Board Meeting to discuss personnel and litigation.

Councilman Vacco reported for the Recreation Department that the summer concert series would be extended this summer through the month of August through the generosity of area businesses donating \$1,500. Dave Yingling contacted area businesses with a favorable response.

New and Unfinished Business:

1. **Resolution on “Motorcycle Safety and Awareness Month”**

Supervisor Nellis read the following resolution:

WHEREAS, motorcycle safety awareness is of critical importance to both riders and other potential victims; and

WHEREAS, in the past year, Erie County has experienced more than a dozen mishaps involving motorcycles, more than half ending in fatalities; and

WHEREAS, no single cause is to blame; and

WHEREAS, motorcycle safety awareness has been identified by Governor George Pataki, as well as other government officials, as a priority in traffic safety;

NOW, THEREFORE WE the members of the Town Board of the Town of Eden, declare the month of May, 2005 as “Motorcycle Safety and Awareness Month” in our municipality; and

FURTHERMORE, we take note of the Saturday, May 7th assembly of area bikers sponsored by the Buffalo-Erie County Chapter, American Bikes Aimed Toward Education (ABATE) at Chestnut Ridge Park in Orchard Park at 12 noon; and

FINALLY, WE RESOLVE that a copy of this proclamation be sent to Mr. Bob Kuhn, President of ABATE, as well as to all Mayors and Supervisors who are members of the Association of Erie County Governments.

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

2. **Appointments to Historic Review Board**

Supervisor Nellis read the following appointments to the Historic Review Board:

Jane Clemens – 2-year term
Tim Schnauffer – Chairman

MOTION was made by Councilwoman Pew to accept the appointments to the Historic Review Board as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

3. **Courneen Reappointment**

Supervisor Nellis stated that this item would be moved to “Old Business” to be reviewed and discussed at a future Town Board meeting.

4. **Resolution on Federal Tax Credit for Volunteer Firefighters and Emergency Personnel**

Councilwoman Pew read the following resolution:

**TOWN OF EDEN RESOLUTION
IN SUPPORT OF SCHUMER-HINCHEY BILL (S.625)
“A FEDERAL TAX CREDIT FOR VOLUNTEER FIREFIGHTER & EMS
PERSONNEL”**

WHEREAS, recruitment and retention of Volunteer Firefighters and Emergency Medical Service providers has become a huge problem for Western New York; and

WHEREAS, enrollment of Volunteer Firefighters and EMS personnel has dropped 50 percent in Erie County since 1990; and

WHEREAS, the Town of Eden is desirous to provide a recruitment tool which would help boost enrollment numbers and express the town's gratitude to its current volunteers; and

WHEREAS, Congressman Maurice Hinchey has introduced the Supporting Emergency Responders Volunteer Efforts Act (SERVE Act) in the House since 2002; and

WHEREAS, Senator Charles Schumer has proposed a bill in support of the SERVE Act, the Schumer-Hinchey bill (S.625), that, if enacted would provide a \$1,000 federal tax credit to individuals who are active members of volunteer fire departments and emergency service crews;

NOW, THEREFORE BE IT RESOLVED that the Eden Town Board go on record in support of the Schumer-Hinchey bill (S.625) which would provide a federal tax credit to Volunteer Firefighters and EMS personnel; and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to Senator Charles E. Schumer in support of all his efforts to enact legislation that will offer a tax incentive to our volunteer firemen and emergency medical providers.

MOTION was made by Councilwoman Pew to adopt the resolution as presented; seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Note: Councilman Vacco would like to add the Eden Reserve Police to the resolution.

5. **Resolution of Support for Association of Erie County Governments on Allocation of Sales Tax Revenue**

Supervisor Nellis read the following resolution:

COUNTY ALLOCATION OF SALES TAX REVENUE

WHEREAS, the Erie County Comptroller's Office has advised municipalities that County allocations, distributions and payments of sales and compensatory use taxes will revert back to quarterly payments from monthly; and

WHEREAS, this unilateral action by the County Comptroller will mean some loss of revenue for municipalities unless we are paid interest on these funds held on our behalf for the two extra months; and

WHEREAS, either interest should be paid to us on payments held by the County or monthly payments should be kept as the appropriate schedule; and

WHEREAS, the Association of Erie County Governments has already gone on record as opposing the County Comptroller's action;

NOW, THEREFORE BE IT RESOLVED that the Town of Eden supports the position of the Association of Erie County Governments in its opposition to the county Comptroller's unilateral action to go to quarterly payments on sales tax allocations and advocates either a return to monthly payments of sales tax revenue by the County or the payment of interest on money held by the County on our behalf; and

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Erie County Comptroller, Erie County Executive and Majority Leader of the County Legislature.

MOTION was made by Supervisor Nellis to adopt the resolution as presented; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

6. **Resolution on Municipal Clerk's Week**

Supervisor Nellis read the following resolution:

WHEREAS, the Office of the Municipal Clerk, a time honored and vital part of the local government, exists throughout the world; and

WHEREAS, the Office of the Municipal Clerk is the oldest public servant; and

WHEREAS, the Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels; and

WHEREAS, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

WHEREAS, the Municipal Clerk is the information center on functions of local government and community; and

WHEREAS, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations; and

WHEREAS, it is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk;

NOW, THEREFORE I, Glenn R. Nellis, Supervisor of the Town of Eden, do recognize the week of May 1 through May 7, 2005 as Municipal Clerks Week and further extend appreciation to our Municipal Clerk, Mary Jo Hultquist, and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

MOTION was made by Councilman Vacco to adopt the resolution as presented; seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

7. **Certificate of Achievement for Excellence in Financial Reporting**

Supervisor Nellis read correspondence from Stephen J. Gauthier, Director of the Technical Services Center for the Government Finance Officers Association regarding the comprehensive annual financial report (CAFR) for the fiscal year ended December 31, 2003, which qualifies the Town of Eden for a Certificate of Achievement for Excellence in Financial Reporting.

8. **8-Year Review of Eden Agricultural Districts (Informational Only)**

Supervisor Nellis read correspondence from Chet Jandzinski, Erie County Department of Environment and Planning regarding the Eden Agricultural Districts that extends from Eden into the Towns of Boston, Hamburg and Orchard Park. The Erie County Legislature will be sending a notice that the 8-year review of the districts is underway, and that a map of the districts is available at your Town Hall. A Notice

of Proposal is being published in a local newspaper announcing this review and a copy will be provided.

The three (3) Eden Agricultural Districts will be merged into one district, and the North Collins portion of the Eden-Langford District will be assigned to the Town of North Collins and be considered under a separate review.

9. **Proposed Local Law No. 3-2005 – Schedule Public Hearing**

Supervisor Nellis stated that this item would be moved to “Old Business” to be reviewed and discussed at a future Town Board meeting.

10. **Report on Water Projects**

Steve Waldvogel, Conestoga-Rovers & Associates, formerly R & D Engineering reported that they have received the final letter of conditions from Rural Development for the Violet Street pump station, 1 (one) year after the application was submitted. The final interest rate is a quarter point less than was estimated previously. Plans and specs have been submitted to Rural Development to their engineering staff to review and expect that within a matter of weeks the project should be ready to bid. A suggested resolution to authorize bond council to prepare and respond to all the final conditions has been presented to the Town Board for their consideration.

Supervisor Nellis read the following resolution:

RESOLVED, that the Town Board authorizes Hodgson & Russ, LLP to submit a copy of a bond resolution, adopted by the Town Board on June 9, 2004 authorizing the issuance of serial bonds for the Violet Street Pump Station Project in an amount not to exceed \$578,000 to the United States Department of Agriculture, Rural Development.

RESOLVED, that the Town Board authorizes Hodgson Russ LLP and Munistat Services, Inc. to coordinate with the Town, CRA Infrastructure & Engineering, Inc. and Rural Development Agency to comply with any conditions as may be so specified in the Final Conditions letter, dated April 4, 2005, including but not limited to, preliminary opinions of bond counsel, form of bond, draft certificate of determination, draft final opinion and amortization schedule for the Violet Street Pump Station Project.

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

Steve Waldvogel also reported that the regional project for water has 6 (six) communities signed on at this point. An application is being prepared and dialog with the corrections facility is underway. There are 8 (eight) communities in the region, Evans and Gowanda have not signed on.

Supervisor Nellis asked the Town Board if they wanted to take action on Proposed Local Law #2-2005.

Councilwoman Pew read the following resolution:

WHEREAS, the Town of Eden has received a rezoning request from 5VL Farms for the front of his property (SBL #223.00-5-7.1) located on Eden Evans Center Road (the property with the Driving Range) for the rezoning of the part of the property presently zoned Suburban Residential to Rural Residential, to accommodate Soccer playing fields, and

WHEREAS, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQR) of the Environmental Conservation Law, the Town has reviewed this proposed project for potential environmental impacts, and

WHEREAS, the proposed Zoning Map modification and subsequent use of the property for Soccer Fields will not adversely affect the natural resources of the State and/or 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 rezoning and project are not anticipated to result in any significant effect on the environment, and that a Negative Declaration is hereby issued.

MOTION was made by Councilwoman Pew to adopt the resolution as presented; seconded by Councilman Krycia; “Ayes”; Nellis, Krycia, Pew; Opposed? – None; Abstain? – Vacco; Motion carried.

Councilwoman Pew read the following resolution:

WHEREAS, the Town of Eden has received a rezoning request from 5VL Farms for property on Eden Evans Center Road (SBL #223.00-5-7.1) for the rezoning of his property currently zoned Suburban Residential to Rural Residential to accommodate the use of this property for Soccer fields, and

WHEREAS, the Planning Board has reviewed this action and recommended its approval and the appropriate Public Hearing has been held, and

WHEREAS, the Town has issued a Negative Declaration in accordance with SEQR.

NOW, THEREFORE BE IT RESOLVED, that the Town of Eden hereby adopts the proposed Zoning Map Amendment based on the following reasons:

1. The modification is not in conflict with the Town's Comprehensive Plan, which recommends a long-term plan for limited commercial development in this area.
2. The rezoning and proposed Soccer fields will have minimal physical impact to the project site (mowing of fields).
3. The rezoning is essentially a "down-zoning" and fits into the area with similar zoning located on the remainder of the site.

MOTION was made by Councilwoman Pew to adopt the resolution as presented; seconded by Councilman Krycia; "Ayes"; Nellis, Krycia, Pew; Opposed? – None; Abstain? – Vacco; Motion carried.

Note: Proposed Local Law #2-2005 to consider rezoning a portion of 2378 West Church Street from Suburban Residential to Rural Residential has been adopted.

Supervisor's Report:

Supervisor Nellis reported that the sewer project near Shurfine is in place and operational.

Supervisor Nellis also reported that he has received an Annual Report from the Eden Library showing an increased circulation.

Supervisor Nellis also reported that the Erie County Authority at Sturgeon Point will be conducted electrical work starting at midnight tonight, with little or no impact to the Town.

Supervisor Nellis also reported that Niagara Mohawk would begin work at Gorcica Field moving 2 (two) pipelines behind 3rd base.

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

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 9:05 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 9:45 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk