

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
JULY 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 (<i>Absent</i>)
TIMOTHY J. WALKER	-	COUNCILMAN (<i>Arrived 8:00 P.M.</i>)

DEPARTMENT HEADS PRESENT:

Robert Klavoon of Wendel	-	Town Engineer
Ronald C. Maggs	-	Superintendent of Highways
Patrick M. Howard	-	Chief of Police
David A. Cole	-	Eden Fire Chief
Kevin R. Schoenthal	-	East Eden Fire Chief
Robert Pietrocarlo	-	Chairman Board of Assessors
Susan Brass	-	Recreation Director

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 June 8,2005; there were none.

MOTION was made by Councilman Krycia to approve the Town Board Minutes of June 8, 2005 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 June 22, 2005; Councilman Krycia stated that an Executive Session was not held at the conclusion of the June 22, 2005 meeting as stated in the minutes. The record will be corrected.

MOTION was made by Councilman Krycia to approve the Town Board Minutes of June 22, 2005 with the above-mentioned correction; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

There were none.

Budget Transfers:

There were none.

Budget Amendments:

Supervisor Nellis read the following “Budget Amendments” from Account A3089 to A1640.4A for Grant money received for Highway Blue Building in the amount of \$1,320.00, from Account D2770 to D5110.4 for reimbursement for drainage work in the amount of \$860.00 and from Account D2680 to D5110.1 for reimbursement for Worker’s Compensation claim in the amount of \$480.00.

MOTION was made by Councilwoman Pew to approve the “Budget Amendments” as presented; seconded by Councilman Krycia; 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	323-401	\$46,665.49
Highway Dept. Fund	161-195	\$37,213.04
Fire Dept. Fund	133-163	\$16,386.26
Recreation Dept. Fund	60-85	\$8,510.60
Refuse and Garbage Fund	14-17	\$39,105.72
Street Lights Fund	14-16	\$3,923.74
Water Fund	15	\$5,042.07

Trust & Agency Fund	--	--
Capital Fund	8-9	\$86.20
Community Development	--	--

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

Departmental Reports:

Department reports for the month of June, 2005 were presented by Councilwoman Pew for Paul Shephard, Eden Emergency Squad; David Cole, Eden Fire Chief; Kevin Schoenthal, East Eden Fire Chief; Patrick Howard, Eden Police Chief; Patrick Howard for Ray Zabron, Dog Control Officer; Ronald Maggs, Superintendent of Highways; Robert Klavoon for 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.

David Cole, Eden Fire Chief requested the Town Board to add the name of Jeffrey M. Perry of 8597 South Main Street, Apt. 3 to the active roster pending, background check and physical exam.

MOTION was made by Councilwoman Pew to add Jeffrey M. Perry to the active roster of the Eden Fire Department pending background check and physical exam; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent requested permission to help as needed with the 2005 Eden Corn Festival.

MOTION was made by Councilwoman Pew to permit Ron Maggs, Highway Superintendent to help as needed with the 2005 Eden Corn Festival; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Susan Brass, Recreation Director publicly thanked Mark & Julie Schichtel from Schichtel’s Nursery for donating 35 trees at Gorcica Field.

- **Note:** Councilman Timothy J. Walker arrived at this time – 8:00 P.M.

New and Unfinished Business:

Resolution commemorating the “Celebration of Hope” Quilt Auctions held in Eden the last two years.

Supervisor Nellis presented the following resolution to the Eden Quilt Guild:

WHEREAS, the second “Celebration of Hope” quilt auction was recently held in Eden to raise money for breast cancer research; and

WHEREAS, this quilt auction, led by the local Eden Quilt Guild, has raised over \$50,000 for breast cancer research, giving prominence to the Town of Eden as a generous and caring community; and

WHEREAS, these funds have gone to the Roswell Park Cancer Institute, an internationally known cancer treatment and research center located in Buffalo; and

WHEREAS, none of these funds would have been raised without the hard work and commitment of the woman from Eden who made the quilts and hosted the auction, bringing recognition and honor to our town;

NOW, THEREFORE BE IT RESOLVED that the Eden Town Board applaud the work of these woman, individually and collectively, in raising these funds for the ongoing research efforts to find a better cure for breast cancer; and

BE IT FURTHER RESOLVED that we designate Labor Day, September 5, 2005 as a day to further commemorate the Eden women who made the “Celebration of Hope” quilt auction such a success; and

FINALLY, we hope that the “Celebration of Hope” quilt auctions will continue to occur in the Town of Eden as a way for us to support this much needed cancer research.

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

Note: The following members of the Eden Quilt Guild were present:
Linda Yovanoff, Irene English, Mary Jo Hodge, Katy Sturm,
Gail Vara, Amy Spiller, Pam Fiedler, Laura Awdey and Martha Muck.

Appointment to the Historic Review Board

Supervisor Nellis read correspondence from Stacey Callinan, Secretary to the Historic Review Board recommending that Ms. Kathleen Davison, 2636 Hemlock Road be appointed to the Historic Review Board to fill one of the vacancies.

MOTION was made by Councilman Krycia to appoint Kathleen Davison to the Historic Review Board based on the recommendation of the Board; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Time Warner Cable – Cable Franchise Transfer Request

Supervisor Nellis read the following resolution:

A RESOLUTION PROVIDING APPROVAL FOR TRANSFER OF CONTROL OF THE CABLE TELEVISION FRANCHISE TO TIME WARNER CABLE INC.

WHEREAS, the Town of Eden, New York (“Franchising Authority”) has granted a cable television Franchise to an entity (the “Franchisee”) presently controlled by Adelphia Communications Corporation (“Adelphia”), which is currently in Chapter 11 bankruptcy proceedings; and

WHEREAS, pursuant to an Asset Purchase Agreement dated April 20, 2005 between Adelphia and Comcast Corporation (“Comcast”), an indirect wholly-owned subsidiary of Comcast will acquire Adelphia’s interest in the Franchisee (the “Adelphia Transaction”); and

WHEREAS, pursuant to an Exchange Agreement between Time Warner Cable, Inc. (“Time Warner Cable”) and Comcast dated as of April 20, 2005, Comcast will cause the Franchisee to assign the Franchise to CAP Exchange I, LLC (the “New Franchise”) and the New Franchise will become an indirect subsidiary of, and will do business as, Time Warner Cable (the “Exchange”); and

WHEREAS, upon closing of the Exchange, New Franchisee expressly agrees to assume the obligations under the Franchise;

WHEREAS, Comcast and Time Warner Cable have filed FCC Forms 394 to provide details regarding the Adelphia Transaction and the Exchange and to establish the qualifications of the New Franchisee; ad

WHEREAS, the Franchising Authority wishes to grant its approval for the Adelphia Transaction and the Exchange as described above.

NOW, THEREFORE BE IT RESOLVED BY FRANCHISING AUTHORITY:

- Section 1. The Franchising Authority hereby approves the Adelphia Transaction.
- Section 2. The Franchising Authority hereby approves the Exchange.
- Section 3. Upon the closing of the Exchange, New Franchisee shall assume the obligations under the Franchise.
- Section 4. This Resolution shall have the force of a continuing agreement with Comcast and Time Warner Cable, and the Franchising Authority shall not amend or otherwise alter this Resolution without the consent of Comcast and Time Warner Cable.
- Section 5. This Resolution shall become effective immediately upon passage by the Franchising Authority.

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

BFI – Resolution

Supervisor Nellis read correspondence from Joe Scaffidi, District Manager for BFI Waste Systems of North America, Inc. regarding Contract #1 – Collection, Hauling and Disposal of Mixed Municipal Solid Waste and Specified Items and Material and Collection, Hauling and Processing of Recyclables. Mr. Scaffidi is requesting the Town of Eden give written consent to an assignment by BFINA of the above-referenced contract documents and all rights, title and interest therein of BFINA to its subsidiary, Allied Waste Services of North American, LLC. AWSNA agrees to assume all responsibilities in compliance with the terms and conditions of the above-referenced contract documents and any liabilities associated therewith.

As part of this subsidiary restructuring project, the membership in AWSNA ultimately will be transferred to BFI, LLC. However, it is important to note that the current management and operations of the various local operations will not be affected by this assignment. While the change results from a purely internal transfer of assets and liabilities, the change is in the nature of a name change, in that the ultimate owner of BFINA, AWSNA, and BFILLC remains AWI Parent. There will be no change in personnel or any other aspect of the local operations as a result of this administrative adjustment.

Note: After review from Attorney William J. Trask, he determined that the request is in order and ready for Town Board consideration.

MOTION was made by Councilman Walker to accept the above-mentioned Contract 1; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Results of Bid Opening – Violet Street Pump Station Project

Steve Waldvogel, Project Engineer for CRA Infrastructure read correspondence from Daniel J. Kolkman, Construction Manager, who was present at the Bid Opening held at Eden Town Hall on July 7, 2005 at 2:00 P.M. Mr. Kolkman stated in his letter to the Eden Town Board that they have reviewed the qualifications and experience of the low bidder for Contract 10-PG, STC Construction, Inc., and the low bidder for Contract 10-PE, O’Connell Electric Co., and have found they have performed similar work acceptably. They, therefore, recommend award of Contract 10-PG to STC Construction, Inc. in the Bid Amount of \$333,357.00, and Contract 10-PE to O’Connell Electric Co., in the Bid Amount of \$48,850.00, contingent upon the availability of funding, review by USDA-Rural Development, and the Town Attorney, William J. Trask. Also needed was the approval of the Town Board to authorize Supervisor Glenn R. Nellis to sign the appropriate documents.

MOTION was made by Councilman Walker to award Contract 10-PG to STC Construction, Inc., low bidder, in the Bid Amount of \$333,357.00 and Contract 10-PE to O’Connell Electric Co., low bidder, in the Bid Amount of \$48,850.00 and to authorize Supervisor Glenn R. Nellis to sign the appropriate documents; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Review of Proposed Change to a Proposed Local Law No. 6-2003 (Never Adopted)

This agenda item was moved to “Old Business” to be reviewed and discussed at a future Town Board Meeting.

Electrical Work at the Eden Town Hall

Supervisor Nellis stated that two bids had been received for Electrical Work at Eden Town Hall as follows:

Ross Strawbrich – Buffalo Motor and Generator at a Bid Amount of \$1,765.97
Doug Schawel – Schawel Electric at a Bid Amount of \$3,800.00

After much discussion, the Town Board made the following decision:

MOTION was made by Councilman Krycia to award the bid to Ross Strawbrich, Buffalo Motor and Generator at a Bid Amount of \$1,765.97; seconded by Supervisor Nellis; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Note: Attorney William J. Trask, who did not review the proposal, suggested that the Town Board obtain a Certificate of Insurance and work out the time frame of completion of the project.

Water Line – Eden Town Hall

Supervisor Nellis stated the line in front of the Police Department was in need of replacement and an amount of \$2,475.00 from Hock Construction had been received. Erie County Water Authority agreed to run the line under the road and the new line will run into the basement of the Town Hall. The line would be constructed of 1-1/2” copper pipe and the meter will be relocated.

MOTION was made by Supervisor Nellis to approve the expenditure of \$2,475.00 to replace the water line; seconded by Councilman Walker; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Appointment – Temporary Town Prosecutor

Supervisor Nellis stated that a discussion was held at the June 22, 2005 Town Board Meeting regarding the temporary appointment of the Town Prosecutor while Melissa Zittel is on maternity leave. At that time a recommendation had been made by Michael G. Cooper, Eden Town Justice to appoint Kevin Brach who had previously served to assist in this capacity and is available should the Town Board be inclined to appoint him to this position. Kevin Condon, 9001 Notre Dame Drive had also inquired about the position and Supervisor Nellis stated that both candidates were equally qualified.

MOTION was made by Supervisor Nellis to appoint Kevin Brach to the temporary position of Town Prosecutor; seconded by Councilman Krycia; “Ayes”; Nellis, Pew, Krycia; Opposed? – None; Abstain? – Walker; Motion carried.

Niagara Mohawk

Attorney Trask stated that Niagara Mohawk is changing the way they bill the Street Light service and authorization is needed from Supervisor Nellis for that purpose.

MOTION was made by Councilman Walker to authorize Supervisor Nellis to sign the amendments to the Niagara Mohawk classification for billing for Street Light purposes subject to approval by William J. Trask, Town Attorney; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor’s Report:

Erie County Water Authority annual meeting will be held on July 26, 2005.
Eden Valley bridge update – work will start August 8, 2005 after the Eden Corn Festival.

Hearing of Visitors:

Mike Bolo, 9998 Clarksburg Road
Phil Muck, 2763 Oakland Drive
Ruth Szalasny, 3048 Belknap Road

Adjournment:

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

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 8:50 P.M.

Executive Session:

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

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk