
MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
DECEMBER 13, 2006
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 |
| RICHARD S. VENTRY | - | COUNCILMAN |

DEPARTMENT HEADS PRESENT:

| | | |
|----------------------------|---|-----------------------------|
| Andrew C. Reilly of Wendel | - | Town Engineer |
| Ronald C. Maggs | - | Superintendent of Highways |
| Patrick M. Howard | - | Chief of Police |
| Cindy Smith | - | Eden Emergency Squad |
| David A. Cole | - | Eden Fire Chief |
| Rick Kirst | - | East 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 7:30 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 November 8, 2006; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of November 8, 2006 as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

There were none.

Budget Transfers:

Supervisor Nellis read the following “Budget Transfer” from Account D2770 to D5130.4 in the amount of \$813.32 for Off-Road Projects 2006-04 and 2006-05 that the Highway Department completed.

MOTION was made by Councilwoman Pew to accept the “Budget Transfers” as presented; seconded by Councilman Ventry; 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. Councilwoman Pew requested additional information on Recreation Department Voucher #195, awaiting clarification from Susan Brass, Recreation Director.

| DESCRIPTION | VOUCHER NUMBERS | AMOUNT |
|-------------------------|-----------------|-------------|
| General Fund | 705-781 | \$56,911.12 |
| Highway Dept. Fund | 330-358 | \$45,928.38 |
| Fire Dept. Fund | 351-384 | \$17,119.94 |
| Recreation Dept. Fund | 182-196 | \$20,671.27 |
| Refuse and Garbage Fund | 25-26 | \$43,229.76 |
| Street Lights Fund | 29-31 | \$4,706.93 |
| Water Fund | 29-33 | \$8,655.47 |
| Trust & Agency Fund | -- | -- |
| Capital Fund | 13 | \$15,000.00 |
| Community Development | 6 | \$9,831.47 |

MOTION was made by Councilwoman Pew to approve the Audit of Bills as presented, with the exception of Recreation Department Voucher #195; seconded by Councilman Vacco; All “Ayes”? Opposed? – None; Abstain? – None; Motion carried.

Departmental Reports:

Department reports for the month of November were presented by Cindy Smith, Eden Emergency Squad; David Cole, Eden Fire Chief; Rick Kirst, East Eden Fire Chief; Patrick Howard, Eden Police Chief; Ray Zabron, Dog Control Officer; 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; 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 A. Cole, Eden Fire Chief requested the Town Board to please add the name of Timothy Howard of 9065 Jennings Road to the active roster of the Eden Fire Department pending background checks and physical exam.

MOTION was made by Councilwoman Pew to add Timothy Howard of 9065 Jennings Road to the active roster of the Eden Fire Department pending background checks and physical exam; seconded by Councilman Ventry; 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 the Renewal of Special Use Permits; 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

Renewal of Special Use Permits

1. Norman Brenner Gravel Pit
2. Cazenovia Recovery Resources
3. St. John’s Church/Eden Kinder Care
4. Sprint Spectrum Telecommunications Tower – Mammoser Property
5. Nextel Partners – Telecommunications Tower
6. Henrich – Airstrip
7. Brawdy- Migrant Workers Trailer
8. Schreiber & Winkelman – Mini Self-Storage Facility
9. Schreiber & Winkelman – Laundromat
10. Minekime – Caretaker/Watchman Dwelling Unit

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

The following persons spoke and asked questions regarding the renewal of Special Use Permits:

Eric Ohmit, 8616 Woodside Drive read the following:

“Eden Kinder Care Special Use Permit lists a condition of no more than 70 children. We believe their enrollment is higher than this (as indicated in their State License which indicates it is 85) and that they are not in compliance with the condition of their existing Special Use Permit. According to the Town Code, we believe they have 60 days to be brought into compliance with their permit. In addition, if this permit limit is expected to increase from 70 to 85, we believe according to the Town Code, that this requires a change to the permit, which requires notification of adjacent property owners and a public hearing seeking comments must take place. We believe their increase in enrollment and relocation of the playground equipment close to our property lines has had a detrimental effect on the value of our property due to the increase in traffic, required equipment and activity. When we purchased the property from the Church 4 years ago, the enrollment was significantly smaller than it appears today and all of the equipment was adjacent to the Church. Since then, all of the equipment has been relocated next to our property. We have erected a fence to gain some measure of privacy, but this was recently eliminated with the construction of a second larger playground set. Furthermore, we assume they were aware of the original provisions of their special use permit and that this violation of the permit conditions constitutes a willful disregard for the original provisions of the permit and the character of the residential neighborhood. We respectfully request that they be brought into compliance with the conditions set forth in their permit prior to any consideration of an approval of their renewal.”

Councilwoman Pew stated that the enrollment numbers may be high but on any given day they may in fact be in compliance.

Attorney Trask recommended that this issue be referred to the Code Enforcement Officer and the Planning Board if conditions are being exceeded. The Planning Board will be meeting on Tuesday, December 19, 2006 and if a decision cannot be made by the deadline of the Special Use Permit, which is December 31, 2006, a temporary conditional exception of the permit may need to be issued by the Town Board.

Mr. Ohmit urged the Code Enforcement Officer to not just look at the December enrollment, but the entire year.

Attorney Trask stated that Sprint Spectrum is now Global Signal and Nextel Partners is now Tower, Co. and they both need to be referred to the Planning Board for their recommendation.

John Popano, Attorney for Tower Co. stated that a transfer was made to the Town of Eden and his main concern is the expiration date of the Special Use Permit.

Richard Minekime stated that a tenant would be in place at the Caretaker Dwelling Unit as soon as construction is completed.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the Public Hearing at 8:27 P.M.

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

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

New and Unfinished Business:

1. Letter of Resignation – Assessment Board of Review

Supervisor Nellis stated that correspondence dated December 4, 2006 had been received in the Town of Eden Assessors office regarding resignation from the Board of Assessment of Review from Roger W. Brandt. Mr. Brandt indicated that he currently spends about six months in Florida during which time the County of Erie holds its mandatory assessment review training class.

MOTION was made by Supervisor Nellis to accept the resignation from Roger W. Brandt with thanks and appreciation for his time served on the committee; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

2. Scheduling of Year-End Meeting and Reorganization Meeting

Supervisor Nellis requested the Town Board set the final meeting of 2006 of the Town Board and the 2007 Reorganization Meeting to be held on December 27, 2006. Councilman Ventry asked if they could hold the Reorganization Meeting in January if items still need clarification. Councilman Krycia stated that certain items could be deferred at that meeting.

MOTION was made by Councilman Vacco to set the final meeting of 2006 for the Town Board and the 2007 Reorganization Meeting on December 27, 2006; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

3. Proposed Local Law – Administration and Enforcement of Local Code

Supervisor Nellis requested moving this item to “Old Business” to be reviewed and discussed at a future Town Board Meeting.

MOTION was made by Councilman Vacco to move this agenda item to “Old Business” to be reviewed and discussed at a future Town Board Meeting; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

4. **Review of Bids for new doors for Eden Fire Hall**

Supervisor Nellis stated that the bid opening was held on Monday, November 20, 2006 at the Town Clerk’s office and that one bid were received from Hamburg Overhead Door in the amount of \$14,500.00. It was the recommendation from David A. Cole, Eden Fire Chief that the bid be accepted.

MOTION was made by Councilman Vacco to award the bid to Hamburg Overhead Door upon the recommendation of David A. Cole, Eden Fire Chief in the amount of \$14,500.00; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

NOTE: A \$5000.00 grant is forthcoming from Assemblyman Quinn’s office pending a formal contract.

5. **Award of Transportation Bid for Eden Recreation Ski Program**

Supervisor Nellis read correspondence from Susan Brass, Recreation Director regarding the Award of Transportation bid for Eden Recreation Ski Program to Laidlaw Transit for \$250.00 per bus per trip and \$200.00 per van per trip. Quotes were received from Laidlaw Transit and Fisher Bus Service.

MOTION was made by Supervisor Nellis to award the transportation bid for Eden Recreation Ski Program to Laidlaw Transit for \$250.00 per bus per trip and \$200.00 per van per trip; seconded by Councilman Vacco; “Ayes”?; Nellis, Krycia, Vacco, Ventry; Opposed? –None; Abstain? – Pew; Motion carried.

6. **Drainage District for Evelyn Drive**

Attorney Trask stated that Mr. Minekime had been contacted and that a Map, Plan and Report is required at this time. A letter, in conjunction with Section 191 of the Town Law, is required to create the district. After the requirements are met, the Town Board will call for a Public Hearing. It was then suggested that this item be moved to “Old Business”.

MOTION was made by Councilwoman Pew to move this item to “Old Business” to be discussed at a future Town Board meeting; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

7. **Governor’s Award to Eden and nearby communities making up Southtowns Community Enhancement Coalition (one of three awards statewide)**

Supervisor Nellis stated that on Monday, December 11, 2006 he attended a ceremony in Albany, New York to accept the Governor's Award for tourism development in recognition of the work done by the Southtowns Community Enhancement Coalition, which includes 7 communities in the Southtowns.

8. **Update on Eden Industrial Park**

Supervisor Nellis stated that a meeting was held today, December 13, 2006 at noon to discuss engineering and financing regarding a town road. The County of Erie has offered monetary support and the Town of Eden has offered to own the road. This was an informational meeting and the ball is now in the owner's court to proceed.

Attorney Trask requested information regarding the law firm representing the owners and a copy of minutes taken at the meeting.

9. **Reappointment of William Henry to the Assessment Board of Review**

Supervisor Nellis read a request from John Bauer, Chairman of the Assessment Board of Review regarding the reappointment of William Henry to a 5-year term to the Assessment Board of Review effective 10/1/2006.

MOTION was made by Councilman Vacco to reappoint William Henry to a 5-year term to the Assessment Board of Review effective 10/1/2006; seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

10. **Resolution on Removing Lackawanna Toll Barrier**

Supervisor Nellis read the following resolution:

**TOWN OF EDEN RESOLUTION
IN SUPPORT OF IMPLEMENTATION OF THE
LACKAWANNA TOLL BARRIER STUDY**

WHEREAS, through the efforts of the Town of Hamburg and Senator Dale Volker, with support from the City of Lackawanna, the Towns of Evans and Eden, and the Erie County Legislature, a study was conducted regarding the impact of removing the Lackawanna toll barriers to a location further west of Exit 57A; and

WHEREAS, after four years of delay, and considerable pressure from the community, the study was finally released and established that the relocation of the Lackawanna Toll Barrier as proposed would actually result in higher revenues for the NYS Thruway Authority, over \$1.2 million within ten years, even before tolls were raised in 2004; and

WHEREAS, the success of the efforts to remove the toll barriers on the I-190 has eliminated one of the two discriminatory toll barriers that Southtowns commuters encounter on a daily basis, and that the relocation of the Lackawanna Barrier would finally result in residents from

Eden and other Southtowns being treated equally as the residents of other Western New York and upstate communities that now enjoy toll free passage along the NYS Thruway;

NOW, THEREFORE BE IT RESOLVED that the Town Board of the Town of Eden go on record once again to call for the immediate implementation of the Lackawanna Toll Barrier study by the NYS Thruway Authority.

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

11. Ratification of Approval of Grant Application for new doors at the Eden Library

Phil Muck, Eden Library trustee reported that the Eden Library has applied for a Grant for funding for (3) three doors at the Eden Library to comply with handicap accessibility. The total cost of the project is \$6,100.00 with \$3000.00 from the grant funding and the balance from the library. The library is seeking support of the Town Board as the library is a town owned building.

MOTION was made by Supervisor Nellis to support the grant request by the trustees of the Eden Library seeking \$3,000.00 in funding and \$3,000.00 from the library to configure (3) doors for handicap accessibility; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

12. Dog Kennel – 8797 East Eden Road

Deputy Supervisor Pew read correspondence regarding a request for a Dog Kennel at 8797 East Eden Road. The Planning Board has requested that the Town Board schedule a Public Hearing. The Town Board is requesting a Public Hearing be held on January 10, 2007 at 8:00 P.M.

MOTION was made by Councilwoman Pew to schedule a Public Hearing for discussion of a Dog Kennel at 8797 East Eden Road for January 10, 2007 at 8:00 P.M.; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

13. Special Use Permits – Town Board action

Attorney Trask requested the Town Board refer to Planning Board, which is conducting a meeting on December 19, 2006 and Scott Henry, Code Enforcement Officer the following Special Use Permits; St. John’s Church/Eden Kinder Care, Sprint Spectrum Telecommunications Tower – Mammoser Property and Nextel Partners – Telecommunications Tower for review and compliance with current permits.

MOTION was made by Councilwoman Pew to refer to Planning Board and Scott Henry, Code Enforcement Officer the above-mentioned Special Use Permits; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor's Report:

Supervisor Nellis reported that the Eden Police Department received a STEP Grant in the amount of \$6,000.00. The grant is used for a traffic enforcement program, which is used in the Town of Eden for roadblocks and aggressive driving.

Hearing of Visitors:

John Hastings, 8969 Notre Dame Drive
Ruth Szalasny, 3048 Belknap Road

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 9:30 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 11:15 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk