

**MINUTES**

**WORK SESSION MEETING – EDEN TOWN BOARD  
2795 EAST CHURCH STREET  
EDEN, NEW YORK  
JANUARY 24, 2007  
7:30 P.M.**

**TOWN BOARD MEMBERS PRESENT:**

GLENN R. NELLIS	-	SUPERVISOR
MARY LOU PEW	-	COUNCILWOMAN ( <i>absent</i> )
EDWARD KRYCIA, JR.	-	COUNCILMAN
VINCENT V. VACCO	-	COUNCILMAN ( <i>absent</i> )
RICHARD S. VENTRY	-	COUNCILMAN

**OTHERS PRESENT:**

Mary Jo Hultquist	-	Town Clerk
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**Call To Order:**

Supervisor Nellis called the Work Session 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.

**New and Unfinished Business:**

1. **Appointments**

Supervisor Nellis read correspondence from John Bauer, Chairman of the Assessment Board of Review recommending R. Ferris Randall to a 4-year term to replace Roger Brandt.

**MOTION** was made by Supervisor Nellis to appoint R. Ferris Randall to a 4-year term to the Board of Assessment Review; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Councilman Krycia read the following appointments recommended by Patrick M. Howard, Chief of Police:

Part-time Police Officers:	Re’ Biastre	Seth Howard
	Michael Dau	Michael McCarthy
	Michael Felschow	Charles Privitera
	Joseph Flynn	Jason Schiedel

Dave Hock

Part-time Dispatchers:      Teresa Blaszc                      Seth Howard  
   Julie Boedo                              Darci Hultquist  
   Robert Brueggeman      Thomas Jones  
   Jane Henry

Reserve Police Captain:      Joseph Flynn

**MOTION** was made by Councilman Krycia to appointment the above-mentioned Part-time Police Officers, Part-time Dispatchers and Reserve Police Captain as recommended by Patrick M. Howard, Chief of Police; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

## 2. Stormwater Work Plan

Supervisor Nellis read the following work plan components for the Town of Eden Stormwater Phase II Local Ordinance Adoption and Development of Funding Mechanisms:

1. Coordinate with Western New York Stormwater Coalition to get input-recommendations regarding fees for developers throughout Western New York.
2. Review and understand the *Model Local Law to Prohibit Illicit discharges, Activities and Connections to Separate Storm Sewer System and the Sample Local Law for Stormwater Management and Erosion and Sediment Control*.
3. Initiate an internal review of existing Town of Eden ordinances to identify and eliminate conflicting code(s).
4. Commence environmental review/SEQR process.
5. Schedule public hearing date for Eden Town Board.
6. Conduct public hearing.
7. Eden Town Board to provide determination of significance (i.e. Negative Declaration, etc.).
8. Adopt the ordinance.
9. File ordinance with the Secretary of State within ten days.
10. Investigate potential funding mechanisms, including state and federal government sources, to support the continuing development and implementation of the Town of Eden’s Stormwater Management Program.
11. Develop recommendations regarding the necessary steps to legally adopt permanent, long-term funding mechanism(s).
12. Adopt long-term funding mechanisms.

**MOTION** was made by Councilman Krycia to adopt the above-listed work plan components for the Town of Eden Stormwater Phase II Local Ordinance Adoption and Development of Funding Mechanisms; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

3. **Shadagee Road Water Project – Review of Engineering, Financial and Attorney Contracts**

Supervisor Nellis recognized Stephen Waldvogel, Project Engineer, CRA Infrastructure & Engineering, Inc. Supervisor Nellis read the following:

MEMORANDUM OF UNDERSTANDING  
IMPLEMENTING SMSI GRANT FOR THE SWEC REGIONAL WATER PROJECT

THIS AGREEMENT, made this 24<sup>th</sup> day of January, 2007, by and between the TOWN OF EDEN, a municipal corporation with offices at 2795 East Church Street, Eden, New York 14057-1280 (hereinafter referred to as “Eden”) and the TOWN OF BRANT, a municipal corporation with offices at 1294 Brant-North Collins Road, P.O. Box 228, Brant, New York 14027 (hereinafter referred to as “Brant”), the TOWN OF NORTH COLLINS, a municipal corporation with offices at 2051 Spruce Street, North Collins, New York 14111 (hereinafter referred to as “Town of North Collins”), the TOWN OF COLLINS, a municipal corporation with offices at 14093 Mill Street, Collins, New York 14034 (hereinafter referred to as “Town of Collins”), the VILLAGE OF NORTH COLLINS, a municipal corporation with offices at 10543 Main Street, North Collins, New York 14111 (hereinafter referred to as “Village of North Collins”) and the VILLAGE OF ANGOLA, a municipal corporation with offices at 41 Commercial Street, Angola, New York 14006 (hereinafter referred to as “Angola”).

**RECITALS**

1. The Southwest Erie County (“SWEC”) region is an area in need of improved public water services.
2. The region includes the Town of Eden, the Town of Brant, the Town of North Collins, the Town of Collins, the Village of North Collins, and the Village of Angola.
3. The parties wish to jointly develop and construct improved water transmission facilities to meet future public water needs, and to study the development of an integrated water system for the area in accordance with a study by CRA Infrastructure & Engineering, Inc. (hereinafter referred to as “CRA”), to provide adequate water service, promote the health and safety of the residents in that area, and otherwise further economic growth (herein referred “SWEC Regional Water Project”).
4. Eden is constructing a new Shadagee Road and replacement Route 62 Transmission Line, which transmission line will have adequate excess capacity to serve the SWEC Regional Water Project of which it is an integral part.
5. By developing an integrated system through cooperative effort, the residents of Eden, Brant, Town of North Collins, Town of Collins, Village of North Collins, and Angola will benefit from affordable pricing for water services and beneficial financing by means of economies and scale, share of construction risks and costs and of regionalized operation and maintenance.
6. It is the purpose of this cooperative effort to take advantage of the recently awarded Shared Municipal Services Incentive (“SMSI”) Grant to provide benefits to the area to be served.

7. The parties have all separately authorized execution of this agreement in accordance with General Municipal Law, Article 5-G, Town Law, Article 12-a, and Village Law, Article 12.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, it is agreed:

1. Scope. That the Parties agree to engage in cooperative efforts to evaluate, develop, construct, manage and maintain the SWEC Regional Water Project in their respective communities.
2. Duration. The term of this Agreement shall be for an initial period equal to the time necessary to enter into a contract with New York State for the SMSI Grant, carry out tasks 1 to 13 on Schedule A, and terminating upon the creation of an Intermunicipal Agreement implementing the SWEC Regional Water Project.
3. Lead Agency.
  - a. Eden shall act as Lead Agency for purposes of the State Environmental Quality Review Act, and coordination of the SMSI grant with New York State.
4. Matching Share. Each community shall be responsible for providing a match to the SMSI grant fund, as shown on the attached Schedule A. Each community shall decide which tasks it wishes to have performed and no community shall have any obligation to provide local match until it authorizes the completion of the specific task, and receives the related deliverable, on behalf of the community. No decision by a specific community to have a particular task performed shall obligate that community for any expense or local share beyond the local share for the specific task authorized. If any community foregoes the preparation of a specific task, Eden may, by paying the local match, apply the corresponding share of the SMSI grant to the Shadagee road Transmission Line as part of the SWEC Regional Water Project.
5. Representations by Towns & Villages.
  - a. Each party hereby represents by signing this agreement that it has taken all steps necessary for the execution of this Agreement.
  - b. That each is authorized to enter into this municipal agreement.
  - c. Each Municipality and District shall cooperate in taking whatever steps are necessary to allow the completion of the tasks listed on Schedule A.
  - d. That each will comply with this Memorandum of Understanding.
  - e. That each will annually make necessary budgetary allocations for the share of local match in accordance with Schedule A, to the extent each party will participate in the local match portion of the SMSI project.
6. Default. In the event any of the parties shall not meet any of its obligations under this Agreement, the other parties may seek injunctive relief or specific performance in any court of competent jurisdiction and in doing so, shall be entitled to recover all costs and expenses so incurred, including but not limited to reasonable attorneys fees and court costs.
7. Assignment. The parties may not assign, transfer, or otherwise dispose of this Agreement or its right, title or interest herein, without the previous written consent of the other parties.

8. Terms to be Exclusive. This Agreement contains the sole and entire understanding between the parties.
9. Waiver and Modification. No waiver or modification of this Agreement or of any covenant, condition or limitation herein shall be valid unless in writing and duly executed by the individual party to be charged therewith. The failure of any party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement, or to exercise any right to remedy provided for in this Agreement shall not constitute a waiver of performance of any such covenant, agreement, term or condition.
10. New York State Law Applies. This Agreement, the performance hereunder, and all actions and special proceedings relating hereto shall be construed in accordance with, under and pursuant to the laws of the State of New York.
11. Severability. All provisions contained in this Agreement are severable. In the event any provision of this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such determination shall not affect any other provision of the Agreement and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
12. Notices. Any notice under this Agreement shall be in writing and shall be deemed to have been duly given when mailed, postage pre-paid, to the parties at the address set forth below, or at such other address as either party may designate from time to time by notice hereunder.

<u>PARTY</u>	<u>ADDRESS</u>
TOWN OF EDEN	2795 East Church Street Eden, New York 14057-1280 716/992-3408
TOWN OF BRANT	1294 Brant-North Collins Road P.O. Box 228 Brant, New York 14027 716/549-0282
TOWN OF NORTH COLLINS	2051 Spruce Street North Collins, New York 14111 716/337-3391
TOWN OF COLLINS	14093 Mill Street Collins, New York 14034 716/532-4887
VILLAGE OF NORTH COLLINS	10543 Main Street North Collins, New York 14111 716/337-3160
VILLAGE OF ANGOLA	41 Commercial Street Angola, New York 14006



<b>Capacity Evaluation</b>						
<b>7) Map, Plan &amp; Report – New Water Districts</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>		
<b>8) Map &amp; Plan – Existing Water System Improvements</b>					<b>\$500</b>	<b>\$500</b>
<b>9) Community Survey &amp; Results Map</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>
<b>10) SEQRA Findings</b>	<b>\$850</b>	<b>\$850</b>	<b>\$850</b>	<b>\$850</b>	<b>\$850</b>	<b>\$850</b>
<b>11) Preliminary USDA Rural Development Funding Application</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>
<b>12) Recommended Supply/Man. Agreement Terms &amp; Conditions</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>	<b>\$500</b>
<b>13) Recommended IMA Terms &amp; Conditions</b>	<b>\$1000</b>	<b>\$1000</b>	<b>\$1000</b>	<b>\$1000</b>	<b>\$1000</b>	<b>\$1000</b>
<b>Totals</b>	<b>\$35,350</b>	<b>\$4,350</b>	<b>\$4,350</b>	<b>\$4,350</b>	<b>\$4,350</b>	<b>\$4,350</b>

**MOTION** was made by Councilman Krycia to grant approval and authorization for Glenn R. Nellis, Supervisor to sign the “Memorandum of Understanding” Implementing SMSI Grant for the SWEC Regional Water Project contingent upon the contractual agreement with New York State; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? – None; Motion carried.

Stephen Waldvogel, Project Engineer, CRA Infrastructure & Engineering, Inc. stated that approval is needed for CRA Infrastructure & Engineering, Inc. to provide Professional Engineering, Legal and Financial Services for the completion of the Southwest Erie County Regional (SWEC) Shared Municipal Services Incentive (SMSI) Water Project. The proposal is to perform all the services under the SMSI grant that the state reviewed and approved and awarded the amount based on. This

matches the original grant application in dollar amount and 90% of these services are funded by that grant.

**MOTION** was made by Councilman Ventry to authorize Glenn R. Nellis, Supervisor to sign the agreement contingent upon the contract from New York State and contingent upon approval of William Trask, Town Attorney; seconded by Councilman Krycia; All “Ayes”; - None; Opposed? –None; Abstain? – None; Motion carried.

Note: Supervisor Nellis stated that a 12” diameter water pipe that would run from North Evans, Rt. 20 on Shadagee Road to Route 62 in the Town of Eden. About 4 years ago, Erie County Water Authority placed a moratorium on the Town of Eden in terms of extension having to do with projects that might require a water line extension, or even a potential subdivision. It was hoped that Collins Correctional would be part of the packet, but they decided to not participate at this time. The purpose of this contract is the addition of the 12” water line. Robert Reynolds, Jr., Erie County Legislator was present and offered his assistance in any way to move the project along.

Many concerns were brought forth by the following residents:

Joseph & Audrey D’Angelo, 2285 Ferrier Road asked if even though the water comes within 5 properties from Shadagee Road and stops on Ferrier Road and the residents on Bauer Road didn’t want the project, would that jeopardize the people on Ferrier Road? Supervisor Nellis stated that the people on Bauer wouldn’t be included.

Stephen Waldvogel stated that the Shadagee Road line is going to be a transition line that reinforces the supply to the entire Town of Eden. The line on Ferrier Road is a much smaller line, which is meant to serve just those homes.

Robert Heferle, 2370 March Road asked how long it was going to take? Supervisor Nellis stated that the first phase, the 12” line on Shadagee Road is expected to be completed by the end of 2008.

Stephen Waldvogel stated that there are a number of legal requirements, a district would need to be formed and the residents would need to approve that. The Town Board is concentrating tonight on a professional services arrangement that will prepare all the legal documents, all the cost estimates, do a town-wide survey to see who wants the water.

Edward Sroda, 2339 Shadagee Road remarked that he has been in his house for



8 years and has a real problem with a sulfur smell and taste and corrosion on copper pipes. Several of his neighbors have moved and if he has to wait until 2009 for water, his house will be for sale as well. The water is just horrible.

Patrick O'Connell, 2455 Shadagee Road stated that he is paying several dollars per month for treatments for his existing situation.

Councilman Krycia stated that we cannot build any new water district without that Shadagee line. Once that is in place we can start forming that new district.

Mr. D'Angelo asked if the procedure of signing petitions could be done ahead time, to save some time. Supervisor Nellis stated yes, that would be an option.

Stephen Waldvogel stated that the cost would have to be determined and the people would then vote on the proposed water district.

Christina Abt, 9411 Sandrock Road, asked if all the residents in Eden would be paying for the proposed Shadagee Road project and Supervisor Nellis answered, yes.

Mike Bolo, 9998 Clarksburg Road asked if after the moratorium is lifted would a normal sequence be followed. Supervisor Nellis stated that when the 12" line is completed.

That ended the question/answer period and the meeting resumed.

Supervisor Nellis requested that the Town Board review the Professional Engineering Services Proposal for the Shadagee Road and Route 62 Watermain and Pump Station for CRA Infrastructure & Engineering, Inc., after review by William Trask, Town Attorney, which would authorize the Supervisor to sign the agreement.

**MOTION** was made by Councilman Ventry to authorize Supervisor Nellis to sign the agreement for the Professional Engineering Services Proposal for the Shadagee Road and Route 62 Watermain and Pump Station for CRA Infrastructure & Engineering, Inc., after review of William Trask, Town Attorney; seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis requested that the Town Board review the Professional Engineering, Legal and Financial Services Proposal for the Proposed SWEC Regional SMSI Water Project for CRA Infrastructure & Engineering, Inc., after review by

William Trask, Town Attorney, which would authorize the Supervisor to sign the agreement.

**MOTION** was made by Councilman Krycia to authorize Supervisor Nellis to sign the agreement for the Professional Engineering, Legal and Financial Services Proposal for the Proposed SWEC Regional SMSI Water Project to CRA Infrastructure & Engineering, Inc. after review of William Trask, Town Attorney; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

4. **Letter from the State Department of Transportation in response to the citizens’ petition for a lower speed limit on Bauer Road**

Supervisor Nellis read correspondence dated January 10, 2007 from Angelo Borgese, P.E., Regional Traffic Operations regarding a request for a reduced speed limit on Bauer road in the Town of Eden. Based on the data they collected and their speed zone evaluation criteria, they will establish a 40 MPH speed limit for Bauer Road from Belknap Road to Shadagee Road. All signs necessary to post the speed zone shall be erected by Erie County.

5. **Solid Waste Management in Rural Communities – County Presentation**

Supervisor Nellis introduced Mr. Theodore W. Osborne, Project Coordinator, Rural Solid Waste, County of Erie, Department of Environment and Planning. Mr. Osborne’s presentation included several hand outs that were made available and stated that a Household Hazardous Waste collection will be held later at a place to be determined sometime in the Spring of 2007.

6. **Scheduling of Public Hearing – Proposed Local Law No. 1-2007 – An amendment to the code of the Town of Eden – Section 225-25 A.4 Accessory Buildings**

Supervisor Nellis read the following Proposed Local Law No. 1-2007 and requested that the Town Board set a public hearing:

A Local Law Amending the Town of Eden Zoning Law

**Section 2225-25 A. Accessory Buildings (4) shall be amended to read as follows:**

- 4) No accessory building shall project nearer to the street on which the principal building fronts than such principal building. Should topographic conditions be such that practical difficulties would be caused by this

requirement with respect to the location of garages, the Planning board may approve the erection of such garages under the following conditions:

- (a) If the natural slope is from 10% to 20% within 25 feet of the street line, the Board may permit a garage not closer than 20 feet to the street line; and
- (b) Where such slope exceeds 20% a garage may be permitted not closer than 10 feet to the street line.

The foregoing restrictions shall not apply:

- (a) To accessory buildings that are to be built more than two hundred (200) feet from the street line; or
- (b) When the accessory building is to be built no more than two feet nearer to the street line than the principal building.

**MOTION** was made by Councilman Krycia to set a Public Hearing for February 14, 2007 at 8:30 P.M. for Proposed Local Law No. 1-2007; a local law amending the Town of Eden Zoning Law, Section 225-25 A. Accessory Buildings; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Supervisor’s Report:**

- The Chamber of Commerce will be holding a business mentoring program, with 7 local businesses taking part starting February 25, 2007 for 10 months.
- The Erie County Consortium Community Development Block Grant Program has approved the following projects submitted by the Town of Eden:

Main Street Waterline Replacement	\$
90,000.00	
Rural Transit Service	\$234,633.00

**Hearing of Visitors:**

Wilbert Smutz, 3094 East Church Street

**Adjournment:**

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

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

**Executive Session:**

Supervisor Nellis adjourned the Executive Session of the Eden Town Board at 9:30 P.M.

Respectfully submitted by,

Mary Jo Hultquist  
Town Clerk