

**MINUTES**

**REGULAR MEETING – EDEN TOWN BOARD  
EAST EDEN FIRE HALL  
8097 EAST EDEN ROAD  
EDEN, NEW YORK  
MAY 9, 2007  
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
David A. Cole	-	Eden Fire Chief
Andrew Breier	-	East Eden Fire Chief
Scott Henry	-	Zoning Code Enforcement Officer

**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 April 11, 2007; there were none.

**MOTION** was made by Councilman Vacco to approve the Town Board Minutes of April 11, 2007 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 April 25, 2007; there were none.

**MOTION** was made by Councilmen Vacco to approve the Town Board Minutes of April 25, 2007 as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Petitions:**

There were none.

**Budget Transfers:**

There were none.

**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	219-267	\$75,448.50
Highway Dept. Fund	99-125	\$27,402.23
Fire Dept. Fund	91-116	\$3,703.83
Recreation Dept. Fund	40-51	\$4,797.97
Refuse and Garbage Fund	5-6	\$45,426.62
Street Lights Fund	9-11	\$5,293.44
Water Fund	7-9	\$10,616.74
Trust & Agency Fund	--	--
Capital Fund	--	--
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? – None; Motion carried.

**Departmental Reports:**

Department reports for the month of April 2007 were presented by Scott Hultquist, Eden Emergency Squad; David Cole, Eden Fire Chief; Andrew Breier, 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; 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.

Andrew Breier, East Eden Fire Chief requested approval to send 5 members of the Fire Company to a training seminar at the fairgrounds at a cost not to exceed \$450.00.

**MOTION** was made by Councilwoman Pew to approve the request to send 5 members of the East Eden Fire Company to a training seminar at the fairgrounds at a cost not to exceed \$450.00; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

David Cole, Eden Fire Chief reported that Jack Rigley, First Lieutenant has completed the three day, twenty-four ICS 300 course conducted in Mayville, New York.

Ron Maggs, Highway Superintendent stated that a bid opening for a 2008 ½ ton pick-up truck was held on Thursday, May 3, 2007 at 10:00 a.m. in the Town Clerk’s office with the following bids received:

Steve Baldo	2007	\$ 21,438.00
Emerling Chevrolet	2008	\$ 20,959.00

Mr. Maggs made the recommendation to the Town Board to award the bid to Emerling Chevrolet for a 2008 ½ ton pick-up truck in the amount of \$20,959.00.

**MOTION** was made by Councilwoman Pew to award the bid for a 2008 ½ ton pick-up truck to Emerling Chevrolet in the amount of \$20.959.00; seconded by Councilman Vacco; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

New and Unfinished Business:

1. **Public Information Meeting on Stormwater Management Plan Annual Report**

Rebecca Wightman, PE, Wendel Duchscherer presented the annual report and stated that the report must be submitted by June 1, 2007 to New York State Department of Environmental Conservation. Copies of the report will be available in the Town Clerk's office and on the Edenwebsite for review through the next week for review and comments. At this time, authorization to sign the compliance certification is required.

**MOTION** was made by Councilwoman Pew to authorize Glenn R. Nellis, Supervisor to sign the Stormwater Management Annual Report; seconded by Councilman Vacco; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

**MOTION** was made by Councilwoman Pew to close the regular meeting of the Town Board; seconded by Councilman Krycia; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

Supervisor Nellis closed the Regular Meeting of the Town Board at 8:00 P.M.

**MOTION** was made by Councilwoman Pew to open the Public Hearing for an Amendment to Special Use Permit – Schmitt Sales/ Eden Shurfine to add diesel Fuel to existing pumps; seconded by Councilman Krycia; 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**  
**Amendment to Special Use Permit**  
**Schmitt Sales/Eden Shurfine**  
**To add diesel fuel to existing pumps**

Supervisor Nellis read the following correspondence and then explained the purpose of the public hearing is to listen to any concerns or questions that citizens have.

Correspondence dated February 22, 2007 from Terry Mahon, Schmitt Sales, Inc., "Schmitt Sales, Inc., would like to seek permission to add diesel to the grades of petroleum products we now offer at the Eden Shurfine location. This product addition would require the installation of an 8,000 gallon underground storage tank and replacement of one of the gasoline dispensers.

This project will not increase the amount of dispensers or the size of the overhead canopy. The only change the customer will notice is an additional button and hose on one of the dispensers.

Schmitt Sales is adding diesel at many of our locations due to the rise in demand of the new ultra low sulfur diesel.”

A memo was received from Mark Agle, Chairman of the Eden Planning Board:

“Based upon this Board’s review of all information submitted and by the presentation made at our March 28, 2007 meeting by Mr. Terry Mahon, a representative of Schmitt Sales, Inc., the Planning Board hereby makes the following recommendation:

1. We recommend that the Town Board favorably consider the request of Schmitt Sales, Inc., to add diesel fuel to the existing fuels offered at Eden Shurfine. Schmitt Sales indicates that no alterations would be made to the canopy or the building. The only changes presented are the installation of a nozzle to an existing fuel pump and a new underground fuel tank.”

The following persons spoke and asked questions regarding the amendment:

There were no comments.

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; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Supervisor Nellis closed the Public Hearing at 8:05 P.M.

**MOTION** was made by Councilman Krycia to open the regular meeting of the Town Board; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

2. **Local Law establishing compliance with the new State Building Code Requirements**

Supervisor Nellis stated that on the advice of William Trask, Town Attorney and

Scott Henry, Code Enforcement Officer several options are to be considered to the proposed local law providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code in the Town of Eden.

After much discussion, it was determined that a work session would be planned with all interested parties to discuss and further review the options being presented.

3. **Referral to the Planning Board – Verizon Site Plan for a new Telecommunications Tower**

Supervisor Nellis stated that a request had been received by Scott Henry, Code Enforcement Officer from Nixon Peabody, Attorneys At Law representing Verizon Wireless for an application for a Special Permit from the Town Board, Site Plan approval from the Planning Board and Area Variances from the Zoning Board of Appeals by Upstate Cellular Network, d/b/a/ Verizon Wireless, to construct a 195' wireless telecommunications facility at 8716 South Main Street in the Town of Eden, New York.

Supervisor Nellis recommended referring this item to the Planning Board for their review and recommendation.

**MOTION** was made by Councilman Vacco to refer this item to the Planning Board; seconded by Councilwoman Pew; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

4. **Resolution Amending the Memorandum of Understanding Implementing the Shared Municipal Services Incentive Grant for the Southwest Erie County Regional Water Project**

Supervisor Nellis read the following resolution:

**RESOLUTION OF EDEN TOWN BOARD**

**WHEREAS**, at its January 24, 2007 meeting, the Eden Town Board adopted a Resolution authorizing Supervisor Nellis to execute and enter into a Memorandum of Understanding with the Towns of Brant, Collins and North Collins and the Villages of North Collins and Angola to engage in cooperative efforts to evaluate, develop, construct and maintain the Southwest Erie County Water Project in their respective communities, and

**WHEREAS**, as a result of changes in the grants actually received as part of the project funding, the schedule of matching funds expected from the participating municipalities has changed,

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board of the Town of Eden hereby ratifies its original authorization of January 24, 2007 with the amended Schedule A "Schedule of Matching Funds" which now shows that the maximum amount of matching funds for which the Town of Eden could be responsible for this project shall be the sum of \$36,500.00, and it is further

**RESOLVED**, that Supervisor Nellis is authorized to execute any addendum to the existing Memorandum of Understanding or other documents as may be necessary to effect this change.

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

5. **Results of Itemized Fire Equipment Bids**

David Cole, Eden Fire Chief and Andrew Breier, East Eden Fire Chief requested

the Town Board's approval for the 2007 Itemized Fire Equipment Bids. The Eden Fire Department is requesting \$12,476.31 and the East Eden Fire Department is requesting \$11,926.12, which are both under the budgeted amount. Copies of the bid results are available in the Town Clerk's office.

**MOTION** was made by Councilman Vacco to approve \$12,476.31 for the 2007 Itemized Fire Equipment bid for the Eden Fire Department and \$11,926.12 for the 2007 Itemized Fire Equipment bid for the East Eden Fire Department; seconded by Councilman Ventry; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

6. **Authorization to execute the Management Services Agreement between the Town of Eden and County of Erie for the Phase II Stormwater Management Project**

Supervisor Nellis requested authorization to execute the Management Services Agreement between the Town of Eden and County of Erie for the Phase II Stormwater Management Project.

**MOTION** was made by councilwoman Pew to authorize Supervisor Nellis to sign and execute the document; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

7. **Engineering Proposal for the Town of Eden Highway Cold Storage Building**

Ron Maggs, Highway Superintendent presented an Engineering Proposal for the Town of Eden, Highway Department Cold Storage Building, which included the “Scope of Work, Deliverables, Assumptions and Fee Proposal” not to exceed an estimated cost of \$3,500.00.

**MOTION** was made by Councilwoman Pew to approve the Engineering Proposal from Wendel Duchscherer to provide services not to exceed \$3,500.00; seconded by councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

8. **Appointment – Eden Police Department**

Supervisor Nellis read correspondence from Pat Howard, Chief of Police requesting the appointment of Rose Nadrich as a part-time dispatcher.

**MOTION** was made by Councilwoman Pew to appoint Rose Nadrich as part-time dispatcher effective immediately; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

9. **Resolution – Window replacement in Eden Town Hall**

Supervisor Nellis read a resolution authorizing replacement of windows on the second floor of the Eden Town Hall with costs not to exceed \$6,000.00. A permission referendum will be in effect for 30 days to transfer the money.

**MOTION** was made by Councilwoman Pew to accept the resolution as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

10. **Approval of Special Use Permit – Schmitt Sales, Inc.**

Supervisor Nellis requested the Town Board consider approval of the Special Use Permit for Schmitt Sales, Inc. to add diesel fuel to the existing pumps at Eden Shurfine based on the recommendations of the Eden Planning Board and that all other existing conditions remain the Special Use Permit with no alterations to the canopy

and building. Andrew Reilly, Town Engineer stated that this is a Type II action under SEQR.

**MOTION** was made by Councilman Vacco to approve the Special Use Permit for Schmitt Sales, Inc.; seconded by Councilwoman Pew; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

**Supervisor’s Report:**

- A meeting will be held on May 11, 2007 with the Southtowns Coalition
- An open house will be held on May 12, 2007 at the Eden Emergency Squad
- A meeting will be held on May 16, 2007 with Robert Reynolds, Erie County Legislator regarding Agriculture Districts
- A web-cast will be held on May 17, 2007 for the retention of retain business

**Hearing of Visitors:**

Wilbert Smutz  
Steven Piwowar

**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 9:15 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