

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
JUNE 13, 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:

Ronald C. Maggs	-	Superintendent of Highways
Patrick M. Howard	-	Chief of Police
Scott Hultquist	-	Eden Emergency Squad
David A. Cole	-	Eden Fire Chief
Rick Kirst	-	East Eden Fire Chief
Robert Pietrocarlo	-	Chairman Board of Assessors
Scott Henry	-	Zoning Code Enforcement Officer
Susan Brass	-	Recreation Director

OTHERS PRESENT:

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 May 9, 2007; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of May 9, 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 May 23, 2007; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of May 23, 2007 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 SW2140 to Account SW8320.4A for revenues collected for expenses in the amount of \$2,312.23, from Account SW2140 to Account SW8320.4B for revenues collected for expenses in the amount of \$300.00, from Account SW8320.4 to Account SW8320.4B for additional Farnham expense in the amount of \$594.01, from Account SR1001 to Account SR1989.4 for tax refund to county in the amount of \$107.00, from Account D5110.4 to Account D5142.4 for prior year audit corrections in the amount of \$269.91, from Account D9030.8 to Account D9015.8 for year end audit accrual in the amount of \$1978.43, from Account A1620.4 to Account A3020.4 for additional payable in the amount of \$1,556.22, from Account A1620.4 to Account A3310.4 for additional payable in the amount of \$132.22, from Account A7310.4 to Account A7150.4 for additional payable in the amount of \$5.78, from Account A9030.8 to Account A9015.8 for year end audit accrual in the amount of \$1,072.85 and from Account A9060.8 to Account A9089.4 for balance for EBS program in the amount of \$792.32.

MOTION was made by Councilwoman Pew to approve the “Budget Transfers” as presented; seconded by Councilman Krycia; 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
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General Fund	268-329	\$50,439.33
Highway Dept. Fund	126-164	\$49,008.53
Fire Dept. Fund	118-148	\$19,328.80
Recreation Dept. Fund	52-75	\$6,460.50
Refuse and Garbage Fund	7-10	\$89,340.82
Street Lights Fund	12-14	\$5,103.87
Water Fund	13-12	\$5,359.88
Trust & Agency Fund	--	--
Capital Fund	--	--
Community Development	--	--

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

Departmental Reports:

Department reports for the month of May 2007 were presented by Scott Hultquist, Eden Emergency Squad; David Cole, Eden Fire Chief; Rick Kirst for Andrew Breier, East Eden Fire Chief; Patrick Howard, Eden Police Chief; Councilman Vacco for Ray Zabron, Dog Control Officer; Ronald Maggs, Superintendent of Highways; 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.

Scott Hultquist, Director of Operations of Eden Emergency Squad requested \$600.00 to upgrade their current high angle rappelling equipment. The equipment includes, but is not limited to, stainless steel pulleys, steel carabineers, Gibbs ascender and rescue figure eights. This equipment is being made available through a joint effort with the Eden Emergency Squad and the Highland Fire Department and will be purchased at a conference that is being attended by the Highland Fire Department in Harrisburg, PA.

MOTION was made by Councilwoman Pew to approve the purchase of the above listed rappelling equipment at a cost not to exceed \$600.00; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Rick Kirst, East Eden Fire Department requested removing Kevin Schoenthal from the active roster of the East Eden Fire Department.

MOTION was made by Councilman Vacco to remove Kevin Schoenthal from the active roster of the East Eden Fire Department with appreciate for the time served on the department; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

David Cole, Eden Fire Chief requested the names of Charles Mohr and Marshall Mohr be removed from the active roster of the Eden Fire Department.

MOTION was made by Councilwoman Pew to remove the names of Charles Mohr and Marshall Mohr from the active roster of the Eden Fire Department; seconded by Councilman Vacco; All “Ayes”; Opposed? - None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent, acting as Chairperson of the Off-Road Drainage Committee, recommended the Town Board approve the projects the committee has agreed upon:

1. Project 2007-01: Recommend hiring the Eden Highway Department to clean the ditch between 9315 and 9349 Sauer Road at a cost not to exceed \$1,000.00.
2. Project 2007-02: Recommend cleaning and removing trees and brush from a tributary of 18-Mile Creek located at 9399 Sisson Highway at a cost not to exceed \$6,000.00, pending permitting and easements.

MOTION was made by Councilwoman Pew to approve the projects as presented by Ron Maggs, for the Off-Road Drainage Committee; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

New and Unfinished Business:

1. **Home Rule Request – Retirement Resolution form the Town to NYS Retirement**

- Supervisor Nellis read correspondence from William Stachowski, State Senator 58th District regarding a slight error with a date in Senate Bill S.1340/Assembly Bill A2760, which authorizes the Town of Eden to offer an optional twenty-year retirement plan to certain police officers, resulting in the completion of Home Rule Request forms.

MOTION was made by Councilman Krycia to authorize Glenn R. Nellis, Supervisor to complete the Home Rule Request forms which authorizes the Town of Eden to offer an optional twenty-year retirement plan to certain police officers; seconded by

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

2. **Water Projects Update**

- Stephen Waldvogel, CRA Infrastructure & Engineering, Inc., gave a presentation to the Town Board regarding the Town of Eden Water Improvements Project on Shadagee Road and Route 62. Mr. Waldvogel stated that a survey would be mailed out to all parcels in need areas, areas that have a desire for public water, and that a public informational meeting will be held sometime in July in Eden and the Town of Brant.

Mr. Waldvogel then presented the Full Environmental Assessment form (FEA) that would be completed by the Town of Eden as the lead agency.

Supervisor Nellis offered the following resolution:

RESOLUTION

The Town Board hereby resolves that it desires to be lead agency with respect to the Town of Eden Water Improvement Project on Shadagee Road and Route 62 and directs Glenn R. Nellis, Supervisor to send a Notice of Intent to act as lead agency to all involved and interested agencies.

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

3. **Set Bid Opening Date – Construction of New Highway Pole Building**

- Supervisor Nellis read correspondence from Ron Maggs, Highway Superintendent regarding setting a bid opening date for Construction of Pole Building for July 3, 2007 at 10:00 a.m. in the Town Clerk’s office.

MOTION was made by Supervisor Nellis to set a bid opening date for July 3, 2007 at 10:00 a.m. in the Town Clerk’s office for Construction of a Pole Building; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis read the following resolution:

RESOLUTION AUTHORIZING SUPERVISOR GLENN R. NELLIS TO EXPEND FUNDS FORM THE GENERAL MAINTENANCE RESERVE FUND OF THE TOWN OF EDEN, SUBJECT TO PERMISSIVE REFERENDUM.

The Town Board of the Town of Eden, duly convened in regular session, does hereby resolve pursuant to the provisions of Section 6-c of the General Municipal Law of the State of New York that the Town Supervisor of the Town of Eden be and is hereby and directed to transfer from the General Maintenance Reserve Fund of the Town of Eden to the Central Garage Equipment Line, Account Number A1640.2, a sum not to exceed \$58,000 from said Reserve Fund for the purpose of constructing a Pole Barn for the Town of Eden Highway Department.

This resolution shall be subject to a permissive referendum, as permitted by law.

MOTION was made by Councilman Krycia to accept the resolution as presented; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None;

4. **Local Law on Uniform Fire and Building Code**

- Supervisor Nellis read a memo from William Trask, Town Attorney as a follow-up from a previous executive session when this proposed local law was discussed. An inspector from the Buffalo-based Office of Fire Prevention and Control (OFPC) contacted Mr. Trask to inform him that the OFPC is responsible for inspecting and enforcing fire codes for all public and private colleges in New York State. The optional language contained in the “model law” that was being considered recognized that those communities with colleges (such as the Town of Hamburg) could, if they wish, have the right to inspect the college facilities. However, the enforcement of fire codes on college grounds is strictly under the jurisdiction of OFPC. OFPC confirmed that they do have inspection and enforcement authority on other properties. Accordingly, the language referencing OFPC inspections would not be included in the local law in Eden.

Supervisor Nellis read a memo from Scott Henry, Code Enforcement Officer regarding a comment by Councilman Krycia that one of the exemptions in the proposed local law for the requirement for a building permit was for fencing [see section 4 (b) (4)], “installation of fences which are not part of an enclosure surrounding a pool”. Presently we require permits for fences. If the town wishes to continue to require permits for fences, we should consider omitting (4) and renumber paragraph (b).

After much discussion the following motion was offered:

MOTION was made by Councilman Krycia to omit section 4 (b) (4), Exemptions. No Building Permit shall be required for work in any of the following categories: “installation of fences which are not part of an enclosure surrounding a pool”. which would continue to require a permit for a fence; seconded by Supervisor Nellis; “Ayes”? Nellis, Krycia; Opposed? – Pew, Vacco, Ventry; Abstain? – None; **The motion was declared lost.**

Supervisor Nellis requested the Town Board consider adopting Chapter 110, Proposed Local Law #2-2007 as presented.

MOTION was made by Supervisor Nellis to adopt Chapter 110, Proposed Local Law #2-2007 as presented; seconded by Councilman Krycia; “Ayes”? Krycia, Nellis; Opposed? – Pew, Vacco, Ventry; Abstain? – None; **The motion was declared lost.**

5. **Appointments – (1) Part-time Police Officer (2) Opening on Historic Review Board**

- Supervisor Nellis read correspondence from Patrick Howard, Chief of Police regarding removing Michael McCarthy and replace him with Matthew J. Schmann as a part-time police officer. Matthew comes to us with prior experience as a certified police officer.

MOTION was made by Councilwoman Pew to remove Michael McCarthy and replace him with Matthew J. Schmann as a part-time police officer effective immediately; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Informational: Supervisor Nellis stated that an opening exists on the Historic Review Board.

6. **Hazardous Waste Drop-off at ECC South Campus – Saturday, June 16, 2007**

- Supervisor Nellis stated that a Household Hazardous Waste Drop-off would be held on Saturday, June 16, 2007 from 9:00 a.m. to 2:00 p.m. at the ECC South Campus.

7. **Eden Verizon Tower Site - Scheduling of Public Hearing**

- Supervisor Nellis read correspondence from Mark Agle, Chairman of Eden Planning Board regarding the Special Use Permit Application for Upstate Cellular Network d/b/a Verizon Wireless. The Planning Board has reviewed their initial site proposal behind the former “Smith Hardware” store and also an alternate proposal

behind the “Eden Bowling Center”. Each site is zoned General Business and each is viable from the Planning Board’s perspective. However, each site will require the applicant to obtain Site Plan approval, a Tower SUP and some zoning variances in order to support the proposed use.

“Upon careful consideration of the submitted preliminary plans for each of the foregoing proposals, the Planning Board makes the following recommendation to the Town Board:

By consensus of the members present at its May 29, 2007 meeting, the Planning Board hereby recommends that the town Board favorably consider approving the proposed use, as requested by Verizon, for the Eden Bowling Center site (3 members , Agle, Majewski, Mahoney, and 1 alternate member, Meyer, advocating this site as primary site). It should be noted as part of this recommendation, that if in their discretion the Town Board desires rather that the Smith Hardware site be approved for the use, the Planning Board by consensus, also considers this to be a viable site alternative (1 member, O’Gorman, advocating this location as primary site, other members would support this site if selected by the Town Board).

We further recommend that if either of the above referenced sites is approved by the Town Board for the proposed use; that prior to issuance of the necessary Special Use Permit, the applicant be required to meet and fulfill the following conditions:

- Prepare a set of plans that are in substantial compliance, in terms of scope and intent, shown on the submitted preliminary plans that were reviewed and serve as the basis for this recommendation.
- Secure any and all required zoning variances necessary to accommodate the use as proposed.
- Submit a Site Plan in accordance with Town specifications for approval by the Planning Board.
- Comply with all other applicable laws, codes, ordinances, or directives of the town of otherwise.”

Supervisor Nellis recommended that the Town Board schedule a public hearing for July 11, 2007 at 8:00 p.m. for the Eden Verizon Tower Site.

MOTION was made by Councilwoman Pew to set a public hearing for July 11, 2007 at 8:00 p.m. for the Eden Verizon Tower site; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

8. **Request for a Special Use Permit – Renee Adams, Hickman Road**

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Supervisor Nellis referenced a memo received from Renee Adams, dated June 7, 2007 regarding a kennel permit for the purpose of breeding purebred AKC registered Shih Tzu.

MOTION was made by Councilman Krycia to refer this request to the Planning Board for their recommendation; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor’s Report:

- Supervisor Nellis and Town Attorney Trask participated in a “web cast” seminar regarding Stormwater Management. Mr. Trask is drafting a law which will be forwarded to the Code Review Committee.
- Political calendars are available in the Town Clerk’s office.
- Supervisor Nellis will be receiving a contractor’s package for the Route 62 re-paving project on Thursday, June 14, 2007 at 1:30 with the State Department of Transportation and will share the information with the emergency services in the Town of Eden.

Hearing of Visitors:

Wilbert Smutz
Ruth Szalasny

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 9:35 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 11:00 P.M.

Respectfully submitted by,

Mary Jo Hultquist, Town Clerk