

April 9, 2008

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
APRIL 9, 2008
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:

Dana Braun of Wendel	-	Town Engineer
Ronald C. Maggs	-	Superintendent of Highways
John McCarthy	-	Lieutenant
Chris Colvin	-	Eden Fire Chief
Andrew Breier	-	East Eden Fire Chief
Robert Pietrocarlo	-	Chairman Board of Assessors
Scott Henry	-	Zoning Code Enforcement Officer
Susan Brass	-	Recreation Director

OTHERS PRESENT:

William Trask	-	Town Attorney
Heather Ohmit	-	Deputy Town Clerk
Anna M. Knack	-	Administrative Assistant

Call to Order:

Supervisor Nellis called the Regular Meeting of the Eden Town Board to order at 7:45 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 March 12, 2008; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of March 12, 2008 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 March 26, 2008; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of March 26, 2008 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	133-208	\$60,949.24
Highway Dept. Fund	70-101	\$48,340.26
Fire Dept. Fund	39-66	\$36,127.65
Recreation Dept. Fund	15-29	\$4,953.37
Refuse and Garbage Fund	--	--
Street Lights Fund	5-8	\$8,603.09
Water Fund	8-10	\$5,126.85
Trust & Agency Fund	--	--
Capital Fund	1	\$7,099.82
Community Development	4	\$3,856.50

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 March 2008 were presented by Chris Colvin, Eden Fire Chief; Andrew Breier, East Eden Fire Chief; John McCarthy for Patrick Howard, Eden Police Chief; Ray Zabron, Dog Control Officer; Ronald Maggs, Superintendent of Highways; Andrew Reilly, Town Engineer; William Trask, Town Attorney; Heather Ohmit for 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.

Chris Colvin, Eden Fire Chief requested permission for Eden and East Eden Fire Departments to advertise the RFP (Request for Proposal) for Itemized Fire Equipment with the bid opening date of Friday May 9, 2008 at 4:00 p.m. in the Town Clerk’s office.

MOTION was made by Councilwoman Pew to set the bid opening for May 9, 2008 at 4:00 p.m. in the Town Clerk’s office for Itemized Fire Equipment for the Eden and East Eden Fire Departments; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

Andrew Breier, East Eden Fire Chief requested permission to send (3) three members of the East Eden Fire Department, Andrew Breier, David Schreiber and Tim Wittmeyer, to a factory in Louisiana for the final inspection of Engine 3, April 15-17, 2008 at a cost of \$350.00 each, stating the company picks up the remaining charges.

MOTION was made by Councilwoman Pew to approve the request to send (3) three members of the East Eden Fire Department, Andrew Breier, David Schreiber and Tim Wittmeyer to a factory in Louisiana, April 15-17, 2008 for the final inspection of Engine 3 at a total cost not to exceed \$1100.00; seconded by Councilman Vacco; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

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Ron Maggs, Highway Superintendent requested permission to attend Highway School in Ithaca, New York on June 2-4, 2008.

MOTION was made by Councilwoman Pew to approve the request of Ron Maggs, Highway Superintendent to attend Highway School in Ithaca, New York on June 2-4, 2008; seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

William Trask, Town Attorney requested authorization for a settlement in a tax proceeding with National Grid (a.k.a. Niagara Mohawk) of 15 parcels which results in aggregate reduction of \$201,617 in assessed value for 2008-09 and then in 2010 the assessment would be reduced from the current amount by \$93,238.

MOTION was made by Councilman Vacco to approve the authorization ; seconded by Councilman Ventry; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

William Trask, Town Attorney requested authorization for Supervisor Nellis to enter into legal services agreement involving the acquisition of pump station of property on Shadagee Road at a rate of \$150.00/hour.

MOTION was made by Councilman Vacco to approve the authorization to enter into legal services agreement with William Trask, Town Attorney involving acquisition of pump station of property on Shadagee Road at a rate of \$150.00/hour; seconded by Councilman Krycia; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

New and Unfinished Business:

1. Approval of Purchase of Land for Pump Station on Shadagee Road

Stephen Waldvogel, CRA Infrastructure & Engineering stated that as discussed previously, the Shadagee Road project will require the construction of a pump station in the vicinity of the thruway overpass over Shadagee Road. After negotiating with the landowner owning a triangular property, a non-usable awkwardly situated piece of land, and discussed with the landowner's attorney, they have offered to sell this land at a very reasonable rate. The Erie County Water Authority has been notified and their only concern is that the pump station be built at the same elevation as the roadway. The parcel appears to be an ideal position for our purposes. Authorization is now needed from the Supervisor and Town Attorney to finalize the arrangement. William Trask, Town Attorney stated that the authorization is to work with the Supervisor putting together the appropriate contract.

MOTION was made by Councilman Vacco to authorize William Trask, Town Attorney and Glenn Nellis, Supervisor to work on the contract for the purchase of land for the pump station on Shadagee Road; seconded by Councilman Ventry; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

2. Update of Water Project

Stephen Waldvogel stated that the Town of Eden has received a "Letter of Conditions" from USDA Rural Development, which is their commitment of funds at a guaranteed rate and term, provided that the town fulfills all the conditions that they list. This is their standard procedure and that letter is a very important milestone in the process of funding. Mr. Waldvogel and Supervisor Nellis met with Rural Development in Batavia and reviewed numerous conditions that the town has to meet. The town has completed the sale of the ban, a 1-year ban, which is a short-term funding of the project and a contractor can now be hired.

Mr. Waldvogel stated that he would be prepared at the Town Board meeting scheduled for May 14, 2008 to give the town a map, plan and report document for Water District No. 5 to begin the public process and schedule a public hearing and move toward a referendum.

3. Property at 2718 West Church Street

Supervisor Nellis made reference to a letter dated March 26, 2008 from Scott Henry, Code Enforcement Officer regarding the Condition of Building (portion thereof), the Gould Property located at 2718 West Church Street recommending subject portion of the building be either repaired, or demolished and removed, for the following reasons:

- It may become dangerous or unsafe to the general public by reason of continuing deterioration and lack of safeguards against further damage by exposure to the elements;
- It is unfit for the purposes for which it may be lawfully used.

Supervisor Nellis accepted the document and requested that William Trask, Town Attorney draft a “Notice and An Order” requesting the appearance of the property owner at a Town Board Meeting to be held on April 23, 2008 at 8:00 p.m.

MOTION was made by Supervisor Nellis requesting William Trask, Town Attorney to draft a “Notice and An Order” requesting the appearance of the property owner at a Town Board Meeting to be held on April 23, 2008 at 8:00 p.m.; seconded by Councilwoman Pew; All “Ayes”; Opposed? - None; Abstain? – None; Motion carried.

4. Appointments

Supervisor Nellis announced that Lisa Winter, Bookkeeper with a provisional Appointment pending the outcome of a civil service exam, of which she scored 100%, be officially appointed Full-time Bookkeeper – Permanent.

MOTION was made by Councilwoman Pew to appoint Lisa Winter, Full-time Bookkeeper – Permanent, with sincere congratulations from the entire Town Board; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Supervisor Nellis recommended the appointment of Diane Herzog of 4295 Zenner Road, effective April 4, 2008 for 19 hours per week at the rate of \$10.00 per hour to the position of part-time secretary to the Supervisor and Building Inspector and secretary to the Planning Board at the rate of \$80.00 per meeting, to replace Dawn Palma.

MOTION was made by Councilwoman Pew to appoint Diane Herzog of 4295 Zenner Road, effective April 4, 2008 for 19 hours per week at the rate of \$10.00 per hour to the position of part-time secretary to the Supervisor and Building Inspector and secretary to the Planning Board at the rate of \$80.00 per meeting, to replace Dawn Palma; seconded by Councilman Krycia; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Councilwoman Pew stated that the Technology Committee and various members of other departments met to interview for the GIS position, which would keep software and licenses current, data current and update training and any other pertinent information. The committee is recommending Joseph Ghosen at a salary not to exceed \$12,000.00. William Trask, Town Attorney clarified that this is not a salary position but an independent contractor and not a newly created position, but the former GIS contractor is deceased.

MOTION was made by Councilwoman Pew to appoint Joseph Ghosen as GIS Consultant as an independent contractor at a salary not to exceed \$12,000.00; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

5. Resolution on MS4 Stormwater – Unfunded Mandates

Supervisor Nellis read the following resolution:

RESOLUTION FUND THE UNFUNDED MS4 MANDATE

April 9, 2008

WHEREAS, the United States (U.S.) Environmental Protection Agency (EPA) promulgated the Phase II Stormwater regulations in 1999 requiring owners and operators of small Municipal Separate Storm Sewer Systems (MS4s) in urbanized areas to obtain a permit to discharge Stormwater to the waters of the U.S.; and

WHEREAS, the EPA requires MS4s in New York State to obtain permit coverage under the New York State Pollutant Discharge and Elimination System (SPEDES) General Permit for Stormwater discharges from MS4s (GP-02-02); and

WHEREAS, the MS4 permit requires regulated MS4s to develop and fully implement a Stormwater Management program by 2008; and

WHEREAS, Stormwater Management programs must contain appropriate management practices in each of the six minimum control measures (Public Education and Outreach; Public Participation and Involvement; Illicit Discharge Detection and Elimination; Construction Site Runoff Control; Post-Construction Runoff Control and Pollution Prevention and Good Housekeeping); and

WHEREAS, to date, Phase II Stormwater regulations are an unfunded mandate; and

WHEREAS, the U.S. EPA has estimated MS4s will spend \$3.00 - \$60.00 per capita to comply with Phase II Stormwater regulations; and

WHEREAS, New York State has not sufficiently funded the Environmental Protection Fund (EPF) to assist communities in the development and implementation of their MS4 programs, and that EPF funding is distributed in the form of competitive grants and therefore not guaranteed to all regulated MS4 municipalities;

NOW, THEREFORE BE IT RESOLVED that to guarantee that the program is implemented and enforced uniformly throughout the State, the Eden Town Board strongly supports the full funding for the development, implementation and enforcement of this program or if full funding is not available from the Federal/State governments, the MS4 program be put on hold until the Federal/State governments can meet their funding obligation for this program; and

BE IT FURTHER RESOLVED that copies of this resolution be sent to all local assemblymen and state senators as well as Governor Patterson, Senate Majority Leader Bruno, Assembly Speaker Silver, Congressman Brian Higgins and U.S. Senator Charles Schumer.

MOTION was made by Supervisor Nellis to adopt the resolution as presented; seconded by Councilwoman Pew; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

6. Application for Liquor License Expansion – Newell Faulkner Post 880

Supervisor Nellis read the request from Frank Prell, Treasurer of Newell-Faulkner Post 880, The American Legion to expand their summer beer license area to include the baseball field and to also renew their license. This request was made to the New York State Liquor Authority and is informational in nature.

7. Notice of Liquor License Renewal – O'Brien's Pub, Inc.

Supervisor Nellis received notification from O'Brien's Pub, Inc. renewing their Liquor License to the New York State Liquor Authority.

8. Approval of Highway Contract

Supervisor Nellis recommended approval of the Eden Highway Department Contract with a 3% increase the first year, 4% increase the second year and 4% increase the third year. Changes in health insurance vendors should save money.

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MOTION was made by Supervisor Nellis to approve the Eden Highway Department contract as stated; seconded by Councilman Vacco; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Supervisor’s Report:

Supervisor Nellis recognized Bob Stickney and Maury Dole and awarded certificates for completing a course for Fire Mutual Aid Resource Management Course on March 17, 2008.

Supervisor Nellis received and filed the annual water quality monitoring report from Erie County Water Authority, which will be on file in the Town Clerk’s office.

Hearing of Visitors:

Ken Szal, Hammond Drive

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 8:50 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 10:00 P.M.

Respectfully submitted by,

Heather Ohmit
Deputy Town Clerk