

July 9, 2008

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
JULY 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	-	Eden Police - Lieutenant
Dave Rice	-	Eden Fire Department
Rick Kirst	-	East Eden Fire Department

OTHERS PRESENT:

William Trask	-	Town Attorney
Mary Jo Hultquist	-	Town Clerk
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 7:30 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 June 11, 2008; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of June 11, 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 June 25, 2008; Supervisor Nellis corrected the time of the Public Hearing for August 13, 2008 for 8:15 p.m. instead of 8:30 p.m. as reported.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of June 25, 2008 with the correction noted; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

Petitions:

There were none.

Budget Transfers/Amendments:

Supervisor Nellis read the following Budget Transfers/Amendments:

From Account	To Account	Reason for Amendment	Amount
A909 General Fund Balance	A4540.4 Ambulance Contractual	New Cutters	\$4,000.00
A1990.4 Contingent Fund	A8540.1 Stormwater- Personal	Create budget for add'l pay for Ron Maggs, Stormwater Manager	\$1,077.00
A909 General Fund Balance	A8540.4A Stormwater	Overbudget due to Stormwater Law	\$2,362.85
A9015.8 NYS Retirement	A9010.8 State Retirement – Non Police	Creation of Account Per audit-Gen. Retirement and Police Retirement must be posted on separate line items	\$44,697.24
A909 General Fund Balance	A9015.8 Police Retirement	Adjustment for actual vs estimate on Retirement Payment	\$2,666.24
A1990.4 Contingent Fund	A9089.4 Other Employee Benefits	Additional amounts for 20 year plan	\$33.61
D909 Highway Fund Balance	D9010.8 State Retirement	Adjustment for actual vs estimate on Retirement payment	\$2,452.76
D2680 Insurance Recoveries	D5130.4 Machinery- Contractual	To apply amount received from insurance o. towards repair of truck	\$4,480.19

MOTION was made by Councilwoman Pew to approve the Budget Transfers/Amendments as presented; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Supervisor Nellis read the following Budget Transfers for the Highway Department:

Date	From	To	Description	Amount
7-9-2008	D2770	D5110.4	Pipe permits #1-4	\$2,268.43
7-9-2008	D2770	D5130.4	Reimbursement by Concord, Colden, Boston for shared expenses initially paid for by Eden Highway on VacAll	\$2,947.89

MOTION was made by Councilwoman Pew to approve the Budget Transfers from the Highway Department as presented; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

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	340-391	\$53,175.94
Highway Dept. Fund	172-196	\$25,069.60
Fire Dept. Fund	118-149	\$16,168.10
Recreation Dept. Fund	55-73	\$6,426.05
Refuse and Garbage Fund	--	--
Street Lights Fund	15-17	\$6,605.36
Water Fund	17-18	\$5,066.18
Trust & Agency Fund	--	--
Capital Fund		
H1440.4	2	\$2,807.77
H8320.4A	6	\$328.00
Community Development	--	--

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

Departmental Reports:

Department reports for the month of June 2008 were presented by Dave Rice for Chris Colvin, Eden Fire Chief; Rick Kirst for Andrew Breier, East Eden Fire Chief; John McCarthy for Patrick Howard, Eden Police Chief; Ray Zabron, Dog Control Officer; Ronald Maggs, Superintendent of Highways; Dana Braun for Andrew Reilly, Town Engineer; William Trask, Town Attorney; Mary Jo Hultquist, Town Clerk; Supervisor Nellis for Scott Henry, Zoning Code Enforcement Officer; Supervisor Nellis for Susan Brass, Recreation Director. All reports are on file in the Town Clerk’s office.

Ron Maggs, Highway Superintendent requested permission to help as needed with the Eden Corn Festival, July 31, 2008 through August 3, 2008.

MOTION was made by Councilwoman Pew to give permission to Ron Maggs, Highway Superintendent to help as needed with the Eden Corn Festival, July 31, 2008 through August 3, 2008; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

MOTION was made by Councilwoman Pew to close the Regular Meeting of the Eden Town Board; seconded by Councilman Vacco; 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 Councilwoman Pew to open the Public Hearing for the purposes of the Special Use Permit for Verizon Wireless – Telecommunications Tower; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Supervisor Nellis opened the Pubic Hearing at 8:05 p.m. (actual time)

8:00 P.M.
Public Hearing
Special Use Permit
Verizon Wireless – Telecommunications Tower

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

Supervisor Nellis introduced Thomas Greiner, Jr. representing Nixon Peabody, Attorneys for Verizon and Andrew Przybysz, Tectonic and Jennifer Wright representing Verizon Wireless. Return Receipts were presented to the Town Clerk of notification of residents within 500 feet of town-owned property adjacent to Swartz Field of this Public Hearing.

Thomas Greiner, Jr., gave a brief presentation on the placement of a telecommunications tower at Swartz Field stating that this site would provide seamless coverage to the hamlet area of the Town of Eden. Two conditions in the Town of Eden ordinance are, first to co-locate and second to use town property. There are no towers to co-locate in the hamlet area and the Swartz Field site is town-owned property. The tower would be located on the South West corner of Swartz Field, fenced with barbed wire to discourage intruders. The cellular frequencies have been studied for 60 years for health effects, weight of evidence shows no evidence of health issues. The lease parcel would be 100' x 100' and the height of the tower is 195'. The site would be unmanned, alarmed and checked every month. The tower would be beneficial to emergency personnel with voice and data use, allowing more private communication.

The following persons spoke in strong opposition of the size and placement of the tower in relationship to their respective properties and the Swartz Field playground:

Carl Otis	9885 Gowanda State Road
John Almendinger	2736 West Church Street
Suzanne Krycia	Hamburg, New York
Julie Otis	9885 Gowanda State Road
Mary Lisa Summar	8747 South Main Street
Lauren White	8516 North Main Street
Mark (no last name given)	8516 N. Main Street
Bill Feasley	2636 West Church Street
Jim Haag	Eden Bowling Center
Claire Otis	9885 Gowanda State Road
Rick Inserra	8737 West Avenue

No one present spoke in favor of the tower.

Supervisor Nellis was presented with a petition signed by 109 residents. At the conclusion of the public hearing, Supervisor Nellis urged residents to write or stop by with further comments and suggestions.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the public hearing at 9:05 p.m.

8:30 P.M. (actual time 9:05 P.M.)
Public Hearing
Special Use Permit
Dog Kennel at 3424 Hickman Road, Eden, New York

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

Renee Adams presented Return Receipts required for mailing to residents within 500 of 3424 Hickman Road of this Public Hearing to the Town Clerk.

Supervisor Nellis read correspondence from Mark Agle, Chairman Eden Planning Board regarding recommendations for a Special Use Permit for a Dog Kennel to be located at 3424 Hickman Road. An adjusted site plan of the Dog Kennel was given to the Planning Board and the following recommendation was made to the Town Board:

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That the Town Board favorably consider the granting of a Special Use Permit for the Renee Adams Dog Kennel Plan, with the following conditions:

- That a revised site plan be prepared that reflects those conditions imposed as part of the Zoning Board of Appeals action:
 1. the revision of the site plan to reflect the requisite amount of outdoor fenced area
 2. the placement location, scope, and nature of the screening to be placed along the common property line with Scheetz
 3. submission of the short form environmental assessment form (if one is not already provided); and
- that prior to the issuance of the actual Special Use Permit, the revised site plan be submitted to, and approved by, the Planning Board; and
- Since there is no adverse environmental effect either to the physical environment or the neighborhood or district, we further recommend that the Town Board further grant a Negative Declaration under SEQRA; and
- That the permit is made to be specific as to the size of dogs (9 to 16 lbs. Range); and
- That the permit also be specific as the maximum number of adult dogs (over one year of age) being set at no more than 10; and
- That the permit is nontransferable; and
- That the permit is subject to annual review.

Renee Adams presented a survey to the Town Board.

The following persons spoke in strong opposition of the Special Use Permit to operate a Dog Kennel at 3424 Hickman Road:

Supervisor Nellis read correspondence from Amanda and Mary Lee Rousch, which copy is on file in the Town Clerk's office, stating great opposition of the opening of this kennel.

Joyce Scheetz, 3392 North Boston Road

No one spoke in favor of the Special Use Permit to operate a Dog Kennel at 3424 Hickman Road.

Renee Adams presented a Purebred License and letters from her supporters to the Town Board.

Mary Jo Hultquist, Town Clerk explained the process of the Purebred License stating that any dog over 4 months of age needs to be licensed, a New York State requirement, but that does not entitle the owner of the license a kennel license.

Ray Zabron, Dog Control Officer stated that a case is pending with the Eden Court regarding too many dogs on the premises. Mr. Zabron stated that Ms. Adams is proceeding without a kennel license.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the public hearing at 9:35 p.m.

MOTION was made by Councilwoman Pew to close the public hearing; seconded by Councilman Krycia; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

MOTION was made by Councilwoman Pew to open the Regular Meeting of the Eden Town Board; seconded by Councilman Krycia; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

New and Unfinished Business:

1. Presentation by Town Auditor – Drescher and Malecki on review of Town’s Financial Books

Supervisor Nellis introduced Brian Juszkievicz, Senior Accountant, Drescher & Malecki, LLP. Mr. Juszkievicz gave a brief presentation regarding the Comprehensive Annual Financial Report for the fiscal year ended December 31, 2007.

2. Map, Plan and Report on Water District No. 5

Stephen Waldvogel and Mark Cavacoli, CRA Infrastructure & Engineering, Inc., presented a Map, Plan and Report for the creation of Water District No. 5. The amount to be financed through Rural Development is estimated to be \$9,150,000.00. The Erie County Water Authority will perform the operation and maintenance of the facilities within the proposed Water District No. 5, under a lease management agreement. There is an estimated 196 hydrants in the proposed district, which the Erie County Water Authority assesses an annual hydrant fee of approximately \$161.00 per hydrant within lease managed areas. The total estimated annual user fees for a Mode Single-Family Home assessed at \$80,000.00 is \$1,003 with an additional one-time customer connection cost of \$1,500.00.

MOTION was made by Councilman Vacco to receive and file the Map, Plan and Report pending the “legal description” to be inserted after review of William Trask, Town Attorney; seconded by Councilwoman Pew; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Supervisor Nellis read the following resolution:

**ORDER CALLING PUBLIC
HEARING TO BE HELD ON
JULY 9, 2008
REGARDING THE PROPOSED
ESTABLISHMENT OF TOWN OF EDEN
WATER DISTRICT NO. 5**

WHEREAS, the Town Board of the Town of Eden (herein called "Town Board" and "Town", respectively), in the County of Erie, New York, has, pursuant to Town Law Article 12-A, has caused CRA Infrastructure & Engineering, Inc. competent engineers duly licensed by the State of New York, to prepare a map, plan and report for the establishment of Water District No. 5, which map, plan and report is on file at the office of the Town Clerk, and available for public inspection at said location; and

WHEREAS, said map, plan and report proposed a water system to be installed along roadways and within right-of-ways previously disturbed by the construction of roads, ditches and utilities. The District will receive water from the Erie County Water Authority through various transmission mains. A hydro-pneumatic pump station will be installed on Jennings Road, and approximately 92,000 lineal feet of 8-inch water line will be installed along roadways in the District, including but not limited to, Bauer Road, Belknap Road, Bley Road, Ferrier Road, Gary Drive, March Road, Hemlock Road, Jennings Road, Larkin Road, New Jerusalem Road, North Boston Road, Tice Road, Sandrock Road and Sauer Road, including all related right-of-way costs, new service installation, site work and other ancillary work, including hydrants, valves,

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apparatus, preliminary costs and other improvements and costs incidental thereto (collectively referred to herein as "Water Improvement"); and

WHEREAS, the proposed District is bounded and described as follows:

[PLEASE INSERT LEGAL DESCRIPTION]

WHEREAS, the maximum amount proposed to be expended for the construction of such Water Improvement is estimated to be \$9,150,000, which amount is to be financed by the issuance of serial bonds in an amount not to exceed \$9,150,000, offset by any funds received from the United States of America, and/or the State of New York, and/or the County of Erie, and/or local grants and the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, in the same manner and at the same time as other Town charges, except as provided by laws, to pay the principal of and interest on said bonds as the same shall become due and payable; and

WHEREAS, the expected average annual cost to the Typical Property (as defined by Town Law) in the proposed District (which is a single family home) during the first year will be \$1,003 (such amount includes construction financing costs (debt service), estimated annual water usage costs and hydrant fees); and each property will also have to provide for service from their home to the property line and internal plumbing modifications to set a meter and vales at an estimated one-time cost of approximately \$1,500.

NOW, THEREFORE BE IT

ORDERED, that a meeting of the Town Board of the Town be held at the Town Hall, East Church Street, Eden, New York, on August 13, 2008, at 8:30 o'clock P.M. (Prevailing Time) to hear all persons interested in the Establishment of the Town of Eden Water District No. 5, and for such other action on the part of the Town Board with relation thereto as may be required by law; and be it

FURTHER ORDERED, that the Town Clerk publish at least once in the newspapers designated as the official newspapers of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing, and

FURTHER ORDERED, that the Town Clerk mail by first class mail to each owner of the taxable real property in the District, a copy of this Order; and

BE IT FURTHER ORDERED, that the Town Clerk shall file a certified copy of this Order with the Office of the State Comptroller, on or about the date of publication of this Order.

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

3. Mandatory Training for Planning Board and Zoning Board Members

Supervisor Nellis read the following resolution:

Mandatory Training for Planning Board and Zoning Board Members

WHEREAS, the adoption and implementation of Local Land Use decisions have a profound effect on the character of a community and the well-being of its citizens; and

WHEREAS, the administration of Land Use Laws is a complex and highly diverse process that requires specialized knowledge and familiarity with the applicable laws and regulations; and

WHEREAS, well-considered and timely decisions consistent to those laws and regulations attract quality community development, result in fewer lawsuits, and generally decrease the discord within the community; and

WHEREAS, the Town of Eden desires to provide, for the benefit of its citizens, a well-trained and knowledgeable body of officials to administer the Local Land Use process; and

NOW, THEREFORE BE IT RESOLVED as follows:

1. Pursuant to the provisions of State Town Law, Section 207 and 271, all Planning and Zoning Board Members and alternates are required to complete at least four (4) hours of suitable training per year.
2. The Town of Eden Town Board charges the Town of Eden Planning Board Chairman and Zoning Board Chairman with the responsibility to select appropriate training for their boards annually, subject to approval by the Eden Town Board.
3. The training requirement may be satisfied by educational activities substantially devoted to planning, zoning or other land use issues; such as:
 - a. Attending conferences, seminars or workshops
 - b. Participating in online training or tutorials
 - c. Attending college courses
 - d. Reading and reviewing journal articles or books
 - e. Any other educational activities considered acceptable by the respective Planning Board/Zoning Board chair
 - f. Training programs offered by a municipality, municipal consultants, municipal departments, consulting firms, regional or county planning agencies, state agencies, statewide municipal associations, colleges/universities. American Planning Association, the New York Planning Federation or a similar entity offering a related training program.
4. A record of annual completion of training shall be maintained by the Planning Board and Zoning Board and reports provided annually to the Town Board.
5. Eligibility for reappointment to the Planning and Zoning Boards shall be conditioned upon completion of training by the end of each calendar year. Review of annual records for training, for each year the member served, will occur before the reappointment of a Planning Board and Zoning Board member.

6. Suitable training in excess of four (4) hours per year may be accumulated and carried over in the succeeding year. Yearly carry over cannot exceed four (4) hours a year, ensuring that a member cannot serve for more than one year without additional training.

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

7. Status Report – Unsafe Structure at 2718 West Church Street and 2739 Sunset Drive

William Trask, Town Attorney stated that the closing on the property at 2717 West Church Street had occurred and the new owner, Robert Lavelle will be obtaining the necessary permits for demolition or repair.

William Trask, Town Attorney stated that a tax foreclosure sale is pending for the property at 2739 Sunset Drive. Mr. Trask will continue to monitor the situation and report back to the Town Board.

8. Engineering Agreement with CRA Infrastructure and Engineering Inc. for Rural Development

Stephen Waldvogel, Project Engineer for CRA Infrastructure and Engineering, Inc., stated that this engineering agreement is in final form, reviewed by William Trask, Town Attorney, and is asking for authorization for Supervisor Nellis to sign the agreement.

MOTION was made by Councilwoman Pew to authorize Glenn R. Nellis, Supervisor to sign the engineering agreement with CRA Infrastructure and Engineering Inc. for Rural Development for Professional Services; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Supervisor’s Report:

Supervisor Nellis reported that the Industrial Access Road is proceeding with work on drainage and Ron Maggs, Highway Superintendent reported that paving would begin at the end of the month.

Hearing of Visitors:

Bob Stickney

Adjournment:

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

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 10:30 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk