

August 27, 2008

**MINUTES**

**WORK SESSION MEETING – EDEN TOWN BOARD  
2795 EAST CHURCH STREET  
EDEN, NEW YORK  
AUGUST 27, 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

**OTHERS PRESENT:**

Mary Jo Hultquist	-	Town Clerk
William Trask	-	Town Attorney

**Call To Order:**

Supervisor Nellis called the Work Session 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.

**New and Unfinished Business:**

**1. Special Use Permit – Verizon Tower**

Supervisor Nellis read the following resolution:

**TOWN BOARD OF THE TOWN OF EDEN  
STATE ENVIRONMENTAL QUALITY REVIEW ACT  
Negative Declaration (August 27, 2008)**

**WHEREAS,** Upstate Cellular Network d/b/a Verizon Wireless (“Verizon Wireless”) proposes to construct and operate a cellular telephone transmission facility (the “Project”) on property to be leased from the Town of Eden, on property commonly known as West Church Street near 8540 North Main Street (SBL No. 238.07-1-40) in the Town of Eden; and

**WHEREAS,** Verizon Wireless has applied to the Town of Eden Town Board (the “Board”) for a tower special permit with respect to the Project (with companion applications to the Planning Board and Zoning Board of Appeals); and

**WHEREAS,** the Project was duly referred to the Erie County Department of Planning pursuant to General Municipal Law §239-m, and a response of “no recommendation” was received on such zoning referral, and

**WHEREAS,** the Board has reviewed the Project and Verizon Wireless’ application materials, including the Environmental Assessment Form, the various engineering reports on design and radio frequency emissions and all other materials submitted in connection with this application; and

**WHEREAS,** the Board conducted public meetings and/or public hearings on the Project, including on July 11, 2007, November 4, 2007 and July 9, 2008, at which meetings Verizon Wireless made presentations and the public was afforded the opportunity to be heard; and

**WHEREAS**, in response to public comment and official input Verizon Wireless assessed and submitted materials on alternative sites; and

**WHEREAS**, the Project is an unlisted action under the State Environmental Quality Review Act ("SEQRA"), and the board has conducted a single agency review of the Project; and

**WHEREAS**, the Board has taken a "hard look" at all potentially adverse environmental impacts pursuant to SEQR.

**NOW THEREFORE**, be it resolved by the Board that:

Based upon the Board's thorough and careful review of the Project and Verizon Wireless' application materials, including the Environmental Assessment Form and all other materials submitted in connection therewith, the Board hereby determines that the Project will not result in any significant environmental impacts and hereby issues a negative declaration for the Project pursuant to SEQRA.

**REASONS SUPPORTING THE NEGATIVE DELCARATION:**

1. Air, Water, Noise, Waste, Erosion, Drainage, Site disturbance Effects:

The Project will not create any adverse change in the existing air quality, water quality of noise levels, nor in solid waste production, nor potential for erosion, nor promote flooding or drainage problems. The Project will produce a minimal disturbance of soil and vegetation, with minimal storm run-off.

2. Aesthetics, Agriculture, Archeology, History, Natural or Cultural Resource, Community or Neighborhood Character:

The Project will not adversely affect agricultural, archeological, historical, natural, or cultural resources. The Project is a public utility, which must be located as and where necessary to provide essential cellular telephone service. Although a facility of this nature will be visible, it has been sited responsibly and the tower has been changed from lattice to monopole style construction and 40 feet so as to minimize visual impact have reduced its height. While the Board recognizes the possibility that introduction of the tower might cause some people to be concerned with respect to aesthetics, the Board has determined that the Project is sited so as to minimize any visual impact the Project may have, and is the best location given the alternatives, and the competing interests involved. In support of that conclusion, the Board has viewed photographic reports and visual simulations of the Project. In addition, the Board notes that the tower will not need to be lit in accordance with FAA regulations. Further, the Board has found that the visual impact if further reduced by the wooded areas around the Project site, partially masking the view of the tower from surrounding areas. Finally, the Board notes that this site required fewer variances from the Town's Telecommunications Facilities Law bulk regulations than other sites, which were considered because of its location at the westerly edge of the hamlet area for which Verizon required coverage.

3. Vegetation, Fish, Wildlife, Significant Habitats, Threatened or Endangered Species.

No plan of animal life will be adversely affected by the Project.

4. Community Plans, Use of Land or Natural Resources.

The Project is in keeping with official community plans and goals and will have no adverse effects on land-use or the use of natural resources by or in the community.

5. Growth, Subsequent Development, etc.

The Project will not induce any significant or adverse growth or subsequent development.

6. Long Term, Short Term, Cumulative, or Other Effects.

The Project will not have any significant adverse long term, short term, cumulative, or other environmental effects.

7. Critical Environmental Area.

The Project will not have an impact on any Critical Environmental Area as designated in 6 NYCRR, subdivision 617.4 (g).

8. Public Health and Safety.

Verizon has submitted engineering reports establishing acceptable structural design standards and projecting radio frequency emission levels which are well below the exposure limits and guidelines established by the Federal Communications Commission and which, by law, are binding upon the Board. Accordingly, the Board finds no adverse impacts on the public health. The Board received testimony from Verizon Wireless describing the inadequacy of existing locations from which Verizon might be able to co-locate to cover the hamlet service area. The Board recognizes that the Project will enable Verizon to provide improved cellular telephone service in the “hamlet” area of Eden, enabling individuals, businesses and emergency service providers to have access to an essential service.

PUBLIC BENEFITS OF PROPOSED PROJECT  
RECOGNIZED BY STATE REGULATORY AGENCIES

Verizon Wireless is a public utility licensed and regulated by the Federal Communications Commission and is charged with the responsibility of providing cellular service to emergency services, businesses, and individuals in the Eden area.

As cellular services grow and mature, many public safety organizations have adapted cellular service as a means of communications. These users require very reliable communications as a matter of public safety. The proposed additional antennas will allow the bypass of the unreliable wire line connection and provide a much higher capacity and more reliable connection. This will greatly enhance the dependability of cellular telephone service for the public safety of citizens of Eden and for individual users alike.

6NYCRR §617.1 states that it is the intention of the SEQR regulations “that a suitable balance of social, economic and environmental factors be incorporated in the planning and decision making of State, regional and local agencies. It is not the intention of SEQR that environmental factors be the sole consideration in decision making.”

This Board has considered all the evidence submitted by Verizon Wireless and has determined that the Project will not have a significant adverse environmental effect on the community.

Notice of this determination of non-significance shall be filed to the extent required by the applicable regulation under SEQRA or as may be deemed advisable by the Board.

**MOTION** was made by Supervisor Nellis to approve the resolution as presented; seconded by Councilman Vacco; “Ayes”? – Nellis, Krycia, Vacco; Opposed? – Pew, Ventry; Abstain? – None; Motion carried.

Councilman Krycia read the following resolution:

**RESOLUTION OF THE EDEN TOWN BOARD**  
**At a Meeting of the Eden Board Held on August 27, 2008**  
**The Following Resolution was offered:**

**WHEREAS**, on or about March 16, 2006, the Town of Eden received an application from Upstate Cellular Network, d/b/a Verizon Wireless (hereinafter “Verizon”, “applicant” or “permittee”) for the siting, construction and operation of a telecommunications facility in the hamlet area of the Town of Eden, and

**WHEREAS**, as a result of input from the Eden Planning Board and the public, Verizon has investigated and undertaken studies relative to several sites within the hamlet area, and

**WHEREAS**, the Eden Planning Board and the Eden Town Board have held multiple public meetings and hearings and have received significant public input relative to the several sites, and

**WHEREAS**, the Eden Planning Board has recommended certain conditions to the Eden Town Board in the event of the issuance of a Tower Special Use Permit for a site located on property owned by the Town of Eden, adjacent to Swartz Field, and

**WHEREAS**, the Eden Town Board has negotiated and approved a lease agreement with Verizon for the siting, construction and operation of the proposed telecommunication tower and appurtenant facilities on the subject property owned by the Town of Eden and located adjacent to Swartz Field, and

**WHEREAS**, on May 28, 2008, the Town of Eden’s proposed lease of such property to Verizon was authorized by resolution of the Eden Town Board, subject to permissive referendum, and

**WHEREAS**, such resolution was duly published and posted as required by law and such permissive referendum period has passed without receipt of a petition requesting a referendum on the proposed lease, and

**WHEREAS**, a referral on the proposed issuance of the Tower Special Permit was made to the County of Erie pursuant to General Municipal Law Section 239-m and the Town of Eden received a response from the County of Erie indicating no recommendation, and

**WHEREAS**, the Eden Town Board has considered the impact of the proposed tower under the requirements of the New York State Environmental Quality Review Act (SEQRA) and has issued a negative declaration under applicable provisions of SEQRA,

**NOW THEREFORE IT IS HEREBY RESOLVED** that the application of Verizon for a Tower Special Permit for the subject property shown on the site plan may, under Chapter 197 of the Town of Eden Code is hereby granted with the following conditions:

1. The tower shall be a monopole design, meeting the design standards submitted with the application and the requirements of Chapter 197 of the Town of Eden Code and shall not exceed 155 feet in height. This permit allows the applicant to affix to the tower up to two (2) cellular antennas and two (2) PCS antennas on each of three (3) faces for a total of twelve (12) antennas as specified in the June 4, 2008 letter from Millennium Engineering, P.C., with appurtenant equipment. Site improvements shall comply with the approved site plan and will include relocation of existing electrical service lines at Swartz Field.
2. The top of the tower shall contain a single, non-blinking light sufficient to be visible to low-flying aircraft.
3. Applicant shall comply with the co-location standards set forth in Chapter 197 of the Town of Eden Code which encourage co-location on existing structures so as to reduce the need for new towers and shall allow municipal services such as police, fire, EMS to co-locate without rent or other charge, provided such co-

location can be accommodated without exceeding the load capacity of the tower and without unreasonably interfering with the performance of existing equipment already at the site.

4. All equipment and operations at the tower site shall, at all times, comply with applicable federal standards relative to electromagnetic and radio frequency radiation emissions and applicant shall be responsible for compliance with the reports and conditions required by Section 197-5 © of the Town of Eden Code relative to such emissions. In addition to such biennial inspections and reports, the Town may require applicant to perform up to two (2) additional sets of tests annually measuring the operational emissions from the equipment located on the tower at locations specified by the Town to verify compliance with FCC emissions standards.
5. This permit shall be subject to additional conditions, restrictions, or revocation in the event of modification to current federal laws, rules or regulations which restrict a municipality's ability to consider the environmental health impacts of electromagnetic and RFE's in zoning approvals for telecommunication facilities.
6. At all times, applicant shall comply with the requirements of Section 197-5 (E) of the Town of Eden Code by delivering to the Town and maintaining a performance (demolition) bond and providing the periodic engineering certifications as to the cost of removal and property restoration.
7. Applicant shall comply with the structural safety inspection and engineering certifications required by Section 197-5 (F) of the Town of Eden Code.
8. The references herein to specific provisions of the "permit standards" contained in Section 197-5 of the Town of Eden Code are made for purposes of highlighting some of those standards and conditions and are not intended to limit the applicability of other conditions set forth in Section 197-5 which remain applicable to this permit even though they are not highlighted herein.
9. Applicant is on notice as to the concerns expressed by owners or operators of neighboring properties, including, but not limited to, Buffalo Southern Railroad, and this permit is specifically conditioned upon the tower being designed, constructed, operated and maintained, as represented during the processing of the application, so that, in the event of failure, the tower will collapse within the leased parcel and no damage will be sustained by any area outside of the leased parcel.
10. This permit shall be renewable annually, subject to such conditions as may be deemed reasonable and necessary by the Town Board based upon the operational experience of the facility.

**MOTION** was made by Councilman Vacco to approve the resolution as presented; seconded by Councilman Krycia; "Ayes"; Nellis, Krycia, Vacco; Opposed? - Pew, Ventry; Abstain? – None. Motion carried.

**Note:** Councilwoman Pew stated, for the record, that she is not opposed to Verizon Wireless locating in the Town of Eden; she is just opposed to this particular location.

**2. Loan Resolution on additional loan for Shadagee Road Water Project**

Supervisor Nellis read the following resolution:

**LOAN RESOLUTION**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF EDEN AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS WATER FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO

**WHEREAS**, it is necessary for the Town of Eden (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of **ONE MILLION AND XX/100 DOLLARS (\$1,000,000.00)** pursuant to the provisions of New York State Municipal Finance Law; and

**WHEREAS,** the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association;

**NOW, THEREFORE,** in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333© of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983 ©).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and

reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses, which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

**MOTION** was made by Councilman Krycia to approve the resolution as presented and authorize Glenn R. Nellis, Supervisor to sign the document; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

**3. Four Corners’ Café – Renewal of Alcohol License – Informational**

Supervisor Nellis read correspondence dated August 8, 2008 from Donald Stuhr, owner of the Four Corners’ Café, 8571 N. Main Street regarding renewal of their liquor license. This is informational in nature.

**4. Letter of Resignation – Eden Historic Review Board**

Supervisor Nellis read correspondence dated August 4, 2008 from Jane F. Clemens submitting her letter of resignation as a member of the Eden Historic Review Board.

**MOTION** was made by Councilman Krycia to accept the resignation of Jane F. Clemens, Eden Historic Review Board with their regrets; seconded by Councilman Vacco; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

**5. Cold War Veterans Exemption**

Supervisor Nellis read the following Proposed Local Law No. 1-2008:

**A LOCAL LAW CREATING A  
“COLD WAR VETERANS EXEMPTION”  
FOR THE TOWN OF EDEN, NEW YORK**

Section 1: Purpose

The purpose of this Local Law is to allow for a tax exemption for Town of Eden Cold War Veterans allowable pursuant to 458-b of the Real Property Tax Law of the State of New York.

Section 2: Definitions

Definitions are used in this local law follow:

- A. “Cold War Veteran” means a person, male or female, who served on active duty for a period of more than three hundred sixty-five days in the United States Armed Forces during the time period from September 2, 1945 to December 26, 1991, was discharged or released therefrom under honorable conditions.
- B. “Armed Forces” means the United States Army, Navy, Marine Corps, Air Force and Coast Guard.
- C. “Active Duty” means full-time duty in the United States Armed Forces, other than active duty for training.
- D. “Service connected” means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in the line of duty on active military, naval, or air service.
- E. “Qualified owner” means a Cold War Veteran, the spouse of a Cold War Veteran, or the unremarried surviving spouse of a deceased Cold War Veteran. Where property is owned by more than one qualified owner, the exemption to which the deceased spouse was entitled.
- F. “Qualified Residential Real Property” means property owned by a qualified owner which is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is

not used exclusively for residential purposes, but is used for other purposes, such portion shall be subject to taxation and only the remaining portion used exclusively for residential purposes shall be subject to the exemption provided by this Local Law. Such property must be the primary residence of the Cold War Veteran or the unmarried surviving spouse of a Cold War Veterans; unless the Cold War Veteran or unmarried surviving spouse is absent from the property due to medical reasons or institutionalization.

- G. "Latest State Equalization Rate" means the latest final equalization rate established by the State Board pursuant to Article Twelve of the Real Property Tax Law.

### Section 3: Exercise of Local Option

In accordance with the provisions of Section 458-b the Real Property Tax Law of the State of New York, the Town of Eden hereby establishes a Cold War Veteran's Exemption from real property taxes, subject to the provisions and limitations set forth in this Local Law.

### Section 4: Amount of Exemption

- A. BASIC EXEMPTION: Qualifying residential real property shall be exempt from taxation to the extent of the lesser of i.) 15% of the assessed value of such property or ii.) \$9,000 multiplied by the latest state equalization rate for the Town of Eden.
- B. ADDITIONAL EXEMPTION: In addition to the exemption provided by paragraph A of SECTION 3, where the Cold War Veteran received a compensation rating from the United States Veterans Affairs or from the United States Department of Defense because of a service connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by 50% of the Cold War Veteran disability rating; provided, however, that such exemption shall not exceed \$30,000, or the product of \$30,000 multiplied by the latest State equalization rate for the Town of Eden, whichever is less.

### Section 5: Limitations

- A. The exemption provided by this Local Law shall be applicable only to Town taxes and not to special district or other taxes.
- B. A Cold War Veteran who receives an exemption under Sections 458 or 458-a of the Real Property Tax Law shall not be eligible to receive any exemption under this Local Law.
- C. The basic exemption provided by under Section 4 (A) of this Local Law shall be granted for a period of 10 years. Where a qualified owner owns qualifying residential real property on the effective date of the Local Law, such 10-year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring on or after the effective date of this Local Law. Where a qualified owner does not own qualifying residential real property on the effective date of this Local Law, such 10 year period shall be measured from the first assessment roll in which the exemption occurs. If, before the expiration of such 10-year period, such exemption property is sold and replaced with other residential real property, such exemption may be granted pursuant to this SECTION for the unexpired portion of the 10-year exemption period.
- D. Application for exemption shall be made by the owner, or all of the owners of the property on a form prescribed by the State Board. The owner or owners shall file the completed form in the Assessor's Office on or before the first appropriate taxable status date. The exemption shall continue in full force and effect for all appropriate subsequent tax years and the owner or owners of the property shall not be required to

refile on or before the appropriate taxable status date if the Cold War Veteran's disability rating increases or decreases or if other changes have occurred which affect qualification for an increased or decreased amount of exemption. Any applicant convicted of willfully making any false statements in the application for such exemption shall be subject to the penalties prescribed in the New York State Penal Law.

Section 6: Effective Date

This Local Law shall take effect immediately and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

**MOTION** was made by Supervisor Nellis to adopt Local Law No. 1-2008 as presented; seconded by Councilwoman Pew; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

**6. Eden Dog Control Officer – Scheduling of Dog Census**

Supervisor Nellis read correspondence from Ray Zabron, Dog Control Officer regarding the scheduling of a dog census in the Town of Eden. New York State Agriculture and Markets allows the Dog Control Officer to obtain authority to issue licenses and receive payment, in the form of checks only, by municipal resolution, under the direction and authority of the Town Clerk. An announcement will be published in The Sun and The Pennysaver to run for the entire month of September in anticipation of the start of the enumeration on October 1, 2008.

**MOTION** was made by Supervisor Nellis to approve the Dog Census to be conducted by Ray Zabron, Dog Control Officer and Maureen Zabron, Dog Control Secretary and to allow them the authority to issue license and receive payment in the form of checks only to begin October 1, 2008; seconded by Councilman Vacco; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

**MOTION** was made by Councilwoman Pew to approve four (4) consecutive ads in the "Eden Pennysaver" and "The Sun"; seconded by Councilman Vacco; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

**7. Review of Fee Schedule Local Law – Stormwater Pollution Prevention**

Supervisor Nellis read correspondence from Rebecca Wightman, PE from Wendel Duchscherer, Architects & Engineers regarding clarification of MS4 Stormwater Fee Schedule.

"In the last Town Board meeting, the proposed development projects Fee Schedule for Reviewing Stormwater Pollution Prevention Plans and Site Inspections came before the Board for adoption. The Board members and town Attorney had several questions on the fee schedule. This memo is a response to those questions.

Q: What can the fees be used for?

R: The SWPPP Design Plan Review portion of the fee covers Wendel Duchscherer's review of SWPPP's for the Town as their Town Engineer. The Construction Inspection portion of the fee covers the Town's expense to conduct site inspections, including field work and administrative work.

Q: What does the SWPPP Design Plan Review cover?

R: The SWPPP Design Plan Review fee covers the review of the SWPPP document itself, including erosion and sediment control, hydraulic and hydrologic calculations, and review of any deviations from the NYSDEC technical standards. Comments on the SWPPP are provided during the first review (two reviews total). If comments are not addressed in the second submittal, further reviews would be covered by the existing plan review fees."

With that explanation, the following Proposed Local Law No. 2-2008 was presented:

**TOWN OF EDEN  
PROPOSED LOCAL LAW NO. 2-2008  
A Local Law Amending the Code of the Town of Eden  
Chapter 108 – Standard Schedule of Fees Law**

**BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF EDEN AS FOLLOWS:**

- 1. SECTION 108-3 Town of Eden Standard Schedule of Fees shall be amended as follows:

Add:

F. Stormwater Pollution Prevention Plans and Site Inspections Fees

**1. Single Phase Residential & Commercial Development Projects**

**If design is in conformance with New York State Design Manuals:**

<u>Number of Acres</u>	<u>SWPPP Design Plan Review Fee</u>	<u>Construction Inspection Fee</u>	<u>Total</u>
Less than 5 Acres	\$300.00	\$500.00	\$ 800.00
5 Acres to 10 Acres	\$450.00	\$700.00	\$1,150.00
Over 10 Acres	\$450.00 plus \$100 for Each add'l 5 Acres Or Portion thereof	\$700.00 plus \$200 for each add'l 5 Acres or portion thereof	

**If design is not in conformance with New York State Design Manuals:**

<u>Number of Acres</u>	<u>SWPPP Design Plan Review Fee</u>	<u>Construction Inspection Fee</u>	<u>Total</u>
Less than 5 Acres	\$600.00	\$500.00	\$1,100.00
5 Acres to 10 Acres	\$750.00	\$700.00	\$1,450.00
Over 10 Acres	\$750 plus \$100 for Each add'l 5 Acres Or portion thereof	\$700.00 plus \$200 for each add'l 5 Acres or portion thereof	

**2. Multi-Phase Residential & Commercial Development Projects**

- A. When the entire project is first being reviewed and approved by the municipality, use the Single Phase Residential & Commercial Development Project schedule above to determine an initial fee based on the entire acreage of the project to be developed in several phases.
- B. Add \$500.00 for each subsequent phase after the 1<sup>st</sup> initial phase, to be collected at the beginning of the development of each subsequent phase. This additional \$500 is to be used for construction inspection assuming that the SWPPP and Design Plans do not change.

NOTE: These fees are in additional to the existing site plan or subdivision review/application fee.

**MOTION** was made by Councilman Vacco to adopt Local Law No. 2-2008; A Local Law Amending the code of the Town of Eden Chapter 108 – Standard Schedule of Fees Law; seconded by Councilman Krycia; “Ayes”; Nellis, Krycia, Pew, Vacco Opposed? - Ventry; Abstain? - None; Motion carried.

**8. Approval of Contract for annual maintenance of Electronic Alarm System – Town Buildings**

Supervisor Nellis read correspondence from Ann Knack, Administrative Assistant regarding the Annual Inspection of Electronic Alarm Systems, which included two (2) quotes from DFT Security. The first quote is for an annual inspection of all our locations plus service and repair agreement for \$445.00 per month or \$5,340 for a year. The second quote is just for the annual inspection, testing and cleaning of equipment at each of our locations for a total annual fee of \$1,708.00 (which is the same fee schedule offered in 1998).

After much discussion the following resolution was offered:

**MOTION** was made by Supervisor Nellis to approve the contract with DFT Security for an annual fee of \$1,708.00; seconded by Councilwoman Pew; “Ayes”; Nellis, Krycia, Pew, Vacco; Opposed? – Ventry; Abstain? - None; Motion carried.

**9. Memos from Highway Superintendent Maggs regarding permission to attend the Highway Fall Conference and Expo in Buffalo and request for a Permanent Easement purchase on W. Pleasant Avenue**

Supervisor Nellis read correspondence from Ron Maggs, Highway Superintendent requesting approval to attend the Highway Fall Conference and Expo to be held in Buffalo on September 23-26, 2008 at a cost of \$90.00.

**MOTION** was made by Councilwoman Pew to approve the request from Ron Maggs, Highway Superintendent to attend the Highway Fall Conference and Expo to be held in Buffalo on September 23-26, 2008 at a cost of \$90.00; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Supervisor Nellis read correspondence from Ron Maggs, Highway Superintendent regarding a permanent easement on West Pleasant Avenue. Mr. Maggs stated that Mr. Tutaro, who resides at 2765 West Pleasant Avenue and currently owns the end of the road. After discussing the many possibilities with Mr. Tutaro, they have agreed on a permanent easement purchase of \$6,000. William Trask, Town Attorney has reviewed the information.

**MOTION** was made by Councilman Vacco to purchase a permanent easement from Mr. Tutaro, 2765 West Pleasant Avenue at \$6,000.00 plus additional cost for legal and recording fees and to authorize Glenn R. Nellis, Supervisor to sign the documents and legal counsel to prepare the document; seconded by Councilwoman Pew; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

**NOTE:** Supervisor Nellis publicly thanked Ron Maggs and the Highway Department for all the work on the Industrial Access Road.

**10. Homeland Security Resolution**

Supervisor Nellis read the following resolution:

**TOWN OF EDEN RESOLUTION  
A RESOLUTION ADOPTING THE NATIONAL INCIDENT MANAGEMENT  
SYSTEM ESTABLISHED BY THE UNITED STATE DEPARTMENT OF  
HOMELAND SECURITY FOR ALL EMERGENCY REPOSE BY ALL  
DEPARTMENTS AND AGENCIES OF THE TOWN OF EDEN, NEW YORK**

**WHEREAS,** the Town of Eden has heretofore utilized Incident Commands Systems for response to all emergencies; and

**WHEREAS,** the United State Department of Homeland Security has adopted the National Incident Management System, and all federal emergency funding and grants are conditioned upon adoption of such system;

August 27, 2008

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Eden hereby adopts the National Incident Management System established by the United States Department of Homeland Security for all emergency responses by all departments and agencies of Eden, New York.

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

**Supervisor's Report:**

- Supervisor Nellis asked Ron Maggs, Highway Superintendent if the Speed Limit Committee could conduct a presentation at the September 10, 2008 Town Board meeting and Mr. Maggs responded favorably.
- Supervisor Nellis reported that the Erie County Association of Governments would be meeting on August 28, 2008 at O'Brien's Pub.

**Hearing of Visitors:**

Mary Louise Schwanz  
Mike Bolo

**Adjournment:**

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

Supervisor Nellis adjourned the Work Session Meeting of the Eden Town Board at 8:45 P.M.

**Executive Session:**

Supervisor Nellis adjourned the Executive Session of the Eden Town Board at 10:35 P.M.

Respectfully submitted by,

Mary Jo Hultquist  
Town Clerk