

November 12, 2008

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
EAST EDEN FIRE HALL
8097 EAST EDEN ROAD
EDEN, NEW YORK
NOVENBER 12, 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 (<i>Absent</i>)
RICHARD S. VENTRY	-	COUNCILMAN

DEPARTMENT HEADS PRESENT:

Dana Braun of Wendel	-	Town Engineer
Ronald C. Maggs	-	Superintendent of Highways
Patrick M. Howard	-	Chief of Police
John Sheffer	-	Eden Emergency Squad
Andrew Breier	-	East Eden Fire Chief
Robert Pietrocarlo	-	Chairman Board of Assessors
Scott Henry	-	Zoning Code Enforcement Officer

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 October 8, 2008; there were none.

MOTION was made by Councilwoman Pew to approve the Town Board Minutes of October 8, 2008 as presented; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of October 22, 2008; Supervisor Nellis amended the new industrial road name to “Landon Parkway”.

MOTION was made by Councilwoman Pew to approve the Town Board Minutes of October 22, 2008 as amended; 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 the Highway Department:

DATE	FROM	TO	DESCRIPTION	AMOUNT
11/12/08	D2770	D5110.4	Work done at Gorcica Field paid by Recreation Department	\$2,235.80
11/12/08	D2770	D5110.4	Pipe permit #2008-07	\$ 193.20
11/12/08	D5110.1	D5110.4	For Road Materials	\$5,075.94
11/12/08	D5142.1	D5110.4	For Road Materials	\$20,000.00

Supervisor Nellis read the following Budget Transfers/Amendments:

From Account	To Account	Reason for Amendment	Amount
A1990.4 Contingent Fund	A1110.4 Justices-Contractual	Justice Copier & Fax broke & needed replacement	\$819.87
SF2770 Misc. Income	SF3410.2 Fire-Equipment	Transfer donation from ElPaso Corp towards East Eden Fire Truck	\$1,500.00
A1990.4 Contingent Fund	A1220.4 Supervisor Contractual	Supervisors mileage not budgeted for	\$915.00
A1990.4 Contingent Fund	A1420.4 Legal - Contractual	Legal Fees	\$4,482.52
A2115 Planning Board Fees	A8020.4 Planning-Contractual	Apply Planning Board/PIP Fees collected towards Planning Fees Paid	\$9,060.00
A1990.4 Contingent Fund	A8020.4 Planning-Contractual	Over Budget on Planning Fees Paid	\$2,072.05
A1990.4 Contingent Fund	A8540.4A Stormwater Management	Over Budget on Stormwater	\$872.59
A909 Fund Balance	A1940.4 Purchase Land/ Right of Way	Permanent Easement on end of West Pleasant	\$6,500.00
A1990.4 Contingent Fund	A9089.4 Other Emp Benefits	Final amounts from closed Flex Plan	\$40.73

MOTION was made by Councilwoman Pew to accept Budget Transfers/Amendments and Highway Budget Transfers/Amendments as read; seconded by Councilman Krycia; 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	566-643	\$54,450.59
Highway Dept. Fund	273-300	\$42,318.93
Fire Dept. Fund	208-231	\$10,275.18
Recreation Dept. Fund	122-134	\$5,226.18
Refuse and Garbage Fund	14-15	\$47,156.48
Street Lights Fund	27-29	\$4,590.91
Water Fund	25-29	\$5,960.91
Trust & Agency Fund	--	--
Capital Fund		
H1440.4	9-10	\$8,593.96
H8320.4	7-9	\$40,312.40
H8320.4A	13	\$6,420.00
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 October 2008 were presented by John Sheffer for Scott Hultquist, Eden Emergency Squad; Councilwoman Pew for Chris Colvin, Eden Fire Chief; Andrew Breier, East Eden Fire Chief; 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; Scott Henry, Zoning Code Enforcement Officer; Supervisor Nellis for Susan Brass, Recreation Director; Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

Andy Brier, East Eden Fire Chief, requested reinstatement of Chris Brind’ Amour to the active roster of the East Eden Fire Department.

MOTION was made by Councilwoman Pew to accept reinstatement as requested; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

On behalf of Eden Fire Department, Councilwoman Pew requested removal of Kiel Hunter from the active roll of the Eden Fire Department.

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

William Trask, Town Attorney requested formal authorization to act on the permanent easement located at the end of West Pleasant Avenue, for highway and utility purposes. This will allow for full legal rights to the property. The purchase price of \$6000.00 will be paid to owner Mr. Tutaro, plus reasonable closing costs.

MOTION was made by Supervisor Nellis to grant William Trask authorization as requested for easement at end of West Pleasant Avenue; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

William Trask, Town Attorney stated that closing on the purchase of the new pump station site on Shadagee Road is expected by the end of the week.

Mr. Trask requested a brief executive session following the regular meeting to discuss matters of litigation.

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

MOTION was made by Councilwoman Pew to open the Public Hearing for Proposed Drainage District No.4, Sonnybrook Subdivision, Phase III; seconded by Councilman Ventry; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

8:00 P.M.
Public Hearing
Proposed Drainage District No.4
Sonnybrook Subdivision, Phase III

William Trask, Town Attorney, noted that Proposed Drainage District No.4 petitions were signed by all property owners within the Drainage District.

The following residents spoke in favor of Proposed Drainage District No.4:

Jeff Schreiber
Dave Schreiber

All persons desiring to be heard, having been heard, Supervisor Nellis closed the public hearing at 8:05 p.m.

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

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

New and Unfinished Business:

1. Approval of 2009 Town Budget

Supervisor Nellis noted that the town budget needs to be adopted and to Albany by November 20, 2008. Supervisor Nellis expressed thanks to the Town Board for their work on the 2009 Town Budget. Councilwoman Pew commented that it was a difficult but fair budget this year. Councilman Krycia mentioned that they were able to compromise and they are comfortable with the budget.

MOTION was made by Councilman Krycia to approve the 2009 Town Budget as presented; seconded by Councilwoman Pew; All "Ayes" Opposed? -None; Abstain? -None; Motion carried.

2. Request for Special Use Permit – Suburban Adult Services

Correspondence was received from Suburban Adult Services, Inc requesting a Special Use Permit for property located at 8695 South Main Street. The intended use will be a Day Habilitation and Pre-Vocational Center for adults with Developmental Disabilities. The Town Board will ask the Planning Board for a formal review of the site plan.

MOTION was made by Councilman Krycia to refer the request to the Planning Board; seconded by Councilwoman Pew; All “Ayes” Opposed? -None; Abstain? -None; Motion carried.

3. Bid Results-New SUV Police Vehicle

Police Chief Pat Howard noted that the description of the vehicle should be changed from SUV to SSV, Special Service Vehicle.

One bid was received from DeLacy Ford, for one new 2008 Ford Expedition K16 Special Service Vehicle, in the amount of \$29,536.00. This includes the cost of transferring equipment for the amount of \$1550.00, and less trade-in value of \$3000.00.

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

4. Resolution authorizing the sale of 1983 American LaFrance Fire Truck

Supervisor Nellis read the following resolution:

Authorizing Resolution

The Eden Town Board hereby authorizes the sale of the surplus 1983 American LaFrance Fire Truck, VIN # AFAG1185D1A 17844, to Patrick S. Sullivan, MD of Decatur, Georgia in “as-is-where-is” condition for the amount of \$2500.00 and further authorizes Supervisor Glenn R. Nellis, upon receipt of payment in full and proof of insurance, to sign a Bill of Sale for the 1983 Fire Truck.

MOTION was made by Supervisor Nellis to accept the resolution as read; seconded by Councilman Krycia; All “ Ayes” Opposed? –None; Abstain? –None; Motion carried.

5. Resolution in support of County funding for Soil and Water Conservation District, 4H and Cooperative Extension

Councilwoman Pew read the following resolution:

**RESOLUTION URGING SUPPORT FOR COUNTY FUNDING
OF
SOIL AND CONSERVATION, 4H AND COOPERATIVE EXTENSION**

WHEREAS, the Town of Eden has been advised that the proposed 2009 budget submitted by Erie County Executive Chris Collins provides no funding for Soil and Water Conservation Districts, 4H and Cooperative Extension; and

WHEREAS, the Town of Eden continues to support Cooperative Extension of Erie County, 4H Clubs and the Erie County Soil & Water Conservation District; and

WHEREAS, the Cooperative Extension, including 4H and Erie County Soil & Water Conservation District, provides important services to the communities in Erie County, which services are key to maintaining the economic and environmental health of the communities; and

WHEREAS, the Erie County Soil & Water Conservation District which has significant expertise in stream bank mitigation projects is not only a participant in the grant proposal but it is also anticipated to be a lead agency in implementing any grants received for such purposes; and

WHEREAS, the loss of funding to The Cooperative Extension, 4H and Erie County Soil & Water Conservation District would be devastating not only to the Cooperative Extension and our young people in 4H but many projects such as stream bank erosion which would cause municipalities county-wide the loss of property, threaten roads, culverts, bridges and buildings, and carries tons of soil into our streams, and further, soil as a sediment can pollute our waterways resulting in the degradation of aquatic habitat and reduced navigability; and

WHEREAS, the loss of Erie County funding to these organizations would result in the loss of other funding to these same organizations from both the State of New York and the Federal Government, greatly magnifying the loss to all municipalities of these important county services;

NOW, THEREFORE BE IT RESOLVED that, for the reasons outlined above, the Town of Eden requests that County Executive Chris Collins and the Erie County Legislature restore 2009 funding to the Cooperative Extension, 4H and Erie County Soil & Water Conservation District to their 2008 funding level; and

BE IT FURTHER RESOLVED that the Town of Eden sends a certified copy of this resolution to County Executive Chris Collins and to the individual County Legislators.

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

Mr. Bill Agle, Member of the Board of Directors of Cooperative Extension mentioned that other towns have already adopted similar resolutions and urged the Town Board to support this resolution.

6. Setting of Public Hearing-Renewal of Annual Special Use Permits

Supervisor Nellis requested the Town Board schedule a Public Hearing for the purpose of Renewal of the Annual Special Use Permits for the following:

1. Norman Brenner Gravel Pit
2. Cazenovia Recovery Systems, Inc.
3. St. John's Church/EdenKinderCare
4. Global Signal-Mammoser
5. TowerCo, LLC
6. Pamela Henrich – Airstrip
7. Schreiber & Winkelman/Storage
8. Schreiber & Winkelman/ Laundromat
9. Richard Minekime/Hemlock Rd.
10. James Gorecki/Dog Facility
11. Renee Adams/Dog Kennel

MOTION was made by Councilwoman Pew to set a Public Hearing for **December 10, 2008 at 8:00 PM**, for the Renewal of Annual Special Use Permits; seconded by Councilman Krycia; All "Ayes" Opposed? –None; Abstain? – None; Motion carried.

7. Resolution-Authorizing the Supervisor to execute a contract with Erie County for Community Development Block Grant Program

Councilwoman Pew read the following resolution:

Authorizing Resolution

The Eden Town Board hereby authorizes Supervisor Glenn R. Nellis to sign, submit and execute a contract with the Erie County Community Development Block Grant (ECCDBG) 2009-2010 program for the following project(s) upon approval of ECCDBG.

1. Pre-Vocational Center – Suburban Adult Services - \$100,000.00
2. Participation with the Rural Transit Service, Inc.

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

8. Resolution-Authorizing the Eden Justice Court to apply for a grant for chairs

Supervisor Nellis read the following resolution:

Authorizing Resolution

The Eden Town Board hereby authorizes the Eden Justice court to submit a grant application to the Justice Court Assistance Program as part of the Justice Court Action Plan (JCAP) for new folding chairs for the Eden Town Hall Courtroom per the following:

150 Steel Folding Chairs with Padded Seat - @\$38.00 each = \$5,700.00

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

9. Eden Recreation-Re: Pay Correction to Adult Winter Program Supervisor

Correspondence was received from the Recreation Board concerning the following staff appointment; Alison Eckert as Adult Swimming Supervisor on Monday & Wednesday nights, November through April at the corrected pay rate of \$10.50 /hour. She was mistakenly listed at \$10.00/hour. This appointment should be made retroactive to November 3rd 2008.

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

10. Sonnybrook Drainage District

Councilman Krycia read the following resolution:

Resolution approving the Establishment of Town of Eden Drainage District No.4 (Sonnybrook Subdivision Phase III)

WHEREAS, a petition, dated October 6, 2008, for the creation of a Drainage District in the Town of Eden, County of Erie, New York, was presented to this Town Board with the necessary map, plan and report attached to it, and

WHEREAS, on October 8, 2008, the Town Board adopted an order which recited the filing of the petition, the proposed improvements, the boundaries and a description of the district, and the estimated costs of these proposals, and

WHEREAS, the order set November 12, 2008 at 8:00 P.M. at the East Eden Fire Hall in the Town of Eden, as the time and place for a public hearing before all interested persons on the petition, and

WHEREAS, the order was posted and published as required by law, and

WHEREAS, the hearing on the petition was held on November 12, 2008, as which evidence was given and all interested parties were heard, and

WHEREAS, the Town Board has received a duly executed Short Environmental Assessment Form and has given due consideration to the impact of the creation of the proposed district on the environment and on the basis of such consideration, has found no substantial environmental impact will be caused by the creation of such district,

NOW, THEREFORE, IT IS HEREBY RESOLVED, that (a) the petition is signed and acknowledged or proved as required by law, it complies with the requirements of Town Law Section 191 as to sufficiency of signers and is otherwise sufficient; (b) all the property and property owners within the proposed district are benefited by the proposed district; (c) all the property and property owners benefited are included within the limits of the proposed district; and (d) it is in the public interest to grant the relief sought in the petition.

IT IS FURTHER RESOLVED that the establishment of a drainage district as proposed in the petition be approved; that the maintenance of the improvements, upon completion by the developer and dedication to and acceptance by the Town, shall become a charge against all taxable real property within such district; and the district shall be called the Town of Eden Drainage District No. 4 (Sonnybrook Subdivision Phase III), and shall be bounded and described as shown on Schedule "A", attached hereto and made a part hereof.

IT IS FURTHER RESOLVED that the Town Clerk of the Town of Eden, within ten (10) days after the adoption of this resolution, shall file certified copies of the resolution in the Erie County Clerk's Office and in the office of the State Department of Audit and Control, Albany, New York.

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

11. North Collins Snowplow Contract

Highway Superintendent Ron Maggs read the following resolution:

BE IT RESOLVED that the Eden Town Board hereby agrees to enter into a mutual agreement with the Town of North Collins, whereby the Town of North Collins Highway Department will plow Clarksburg Road from the North Collins Town Line to the Eighteen mile Creek Bridge. In exchange, the Eden Town Highway Department will plow the lower sections of both Belcher and Rocky Mountain Roads.

MOTION was made by Councilwoman Pew to accept the resolution as read; seconded by Councilman Ventry; All "Ayes" Opposed? – None; Abstain? – None; Motion carried.

12. Town Board Dates for December 2008 Meetings

The Town Board set December 10th and December 29th as the final meetings of the year. The December 29th meeting will include the re-organizational meeting.

Supervisor Nellis requested a return to item #10, Sonnybrook Drainage District, referring to a memo from Wendel Duchscherer Engineers regarding the structure of the stormwater pond.

William Trask, Town Attorney, stated our town engineers are not prepared at this point to sign off on the pond. The pond, having been designed and constructed to meet 100-year flood or storm event standards, being the sole issue holding up the recommendation from the town engineer. Under our public improvements local law, the Town Board must have certification of acceptable completion of the improvements from both the Highway Superintendent and the town engineers before

November 12, 2008

it can accept the improvements. The engineers from Wendel Duchscherer and engineers for Schreiber & Winkelman must both approve the project before it can go forward. Attorneys from both sides are working on the items needed.

A target date for a special meeting was set for November 19, 2008.

Supervisor's Report:

There was no report.

Hearing of Visitors:

Mr. Bill Agle
Mr. Ray Zabron

Adjournment:

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

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 9:00 P.M.

Executive Session:

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

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk