

June 10, 2009

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
JUNE 10, 2009
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:

Dave Johnson	-	Town Engineer
Ronald C. Maggs	-	Superintendent of Highways
Michael J. Felschow	-	Chief of Police
Rich Greeley	-	for Eden Fire Chief
Rick Kirst	-	for East Eden Fire Chief
Scott Henry	-	Code Enforcement Officer
Susan Brass	-	Recreation Director

OTHERS PRESENT:

William Trask	-	Town Attorney
Mary Jo Hultquist	-	Town Clerk
Anna M. Knack	-	Administrative Assistant

Call to Order:

Supervisor Nellis called the Regular Meeting of the Eden Town Board to order at 7:30 P.M.

Pledge of Allegiance:

Supervisor Nellis led the assembly in the Pledge of Allegiance to the flag followed by a moment of silence.

Approval of Minutes:

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of May 13, 2009; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of May 13, 2009 as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of May 27, 2009; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of May 27, 2009 as presented; 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
CP909 Parkland Fund Balance	CP7110.2 Park Equipment	Purchase of Mower	\$7,780.00
D2402 Highway Reserve	D5130.2 Machinery	Transfer from Reserve for purchase of Wheel Loader as previously approved	\$26,479.00
A1990.4 Contingent Fund	A1320.4 Auditing Contractual	Dresher and Malecki Audit over budget	\$100.00

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 from the Town of Eden Highway Department:

D5130.4	D5140.4	Per auditor	\$800.00
D5142.4A	D5140.4A	Per auditor	\$2,673.47

MOTION was made by Councilwoman Pew to approve the Budget Transfers 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	276-343	\$55,543.15
Highway Dept. Fund	127-154	\$66,197.66
Fire Dept. Fund	112-132	\$16,464.52
Recreation Dept. Fund	49-58	\$1,228.47
Refuse and Garbage Fund	8-9	\$769.80
Street Lights Fund	10-12	\$3,989.51
Water Fund	17-18	\$5,076.89
Trust & Agency Fund	--	--
Capital Fund	--	--
Community Development	--	--

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

Departmental Reports:

Department reports for the month of May 2009 were presented by Rich Greeley for Chris Colvin, Eden Fire Chief; Rick Kirst for Andrew Breier, East Eden Fire Chief; Patrick Howard, Eden Police Chief; Ray Zabron, Dog Control Officer; Ronald Maggs,

Superintendent of Highways; Andrew Reilly, Town Engineer; William Trask, Town Attorney; Mary Jo Hultquist, Town Clerk; Scott Henry, Zoning Code Enforcement Officer; Susan Brass, Recreation Director. All reports are on file in the Town Clerk's office.

Andrew Breier, East Eden Fire Chief requested the Town Board accept Bradley Schreiber to the active roster of the East Eden Fire Company after completing a physical and arson background check.

MOTION was made by Councilwoman Pew to accept Bradley Schreiber to the active roster of the East Eden Fire Company pending a physical and arson background check; seconded by Councilman Ventry; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent requested permission to help with the Eden Corn Festival which will be held August 6,7,8 & 9, 2009 at his discretion.

MOTION was made by Councilwoman Pew to allow Ron Maggs, Highway Superintendent to help with the Eden Corn Festival at his discretion; seconded by Councilman Krycia; "Ayes"; Nellis, Krycia; Pew; Vacco; Opposed? – None; Abstain? – Ventry; Motion carried.

Supervisor Nellis read the following resolution:

**RESOLUTION
HONORING
JOHN (JACK) HAINS**

WHEREAS, John (Jack) Hains has served the Town of Eden as a member of the Assessment Board of Review since June 14, 1995 and the Zoning board of Appeals since April 23, 1997 with dedication and distinction; and

WHEREAS, these years of service have been marked by exemplary and energetic leadership in the vital accomplishments of both of these boards; and

WHEREAS, his performance of the duties and responsibilities of both the Assessment Board of Review and Zoning Board of Appeals has been characterized by excellent and constructive contributions; and

WHEREAS, due to unforeseen circumstances, Jack finds it necessary to announce his resignation as a member of both of these boards, effective immediately;

NOW, THEREFORE BE IT RESOLVED that the Eden Town Board, speaking on behalf of the residents of Eden, publicly goes on record commending Jack Hains for his outstanding efforts and voices our appreciation for his leadership for these many years.

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

New and Unfinished Business:

1. **Motion authorizing the Supervisor to sign agreement with Erie County Industrial Development Agency on Water Pipe under Railroad Track on Shadagee Road**

Supervisor Nellis stated that the agreement had been reviewed by William Trask, Town Attorney and Steven Waldvogel, CRA Infrastructure and Engineering, was in good form and contained the proper insurance coverage for the town.

MOTION was made by Councilman Krycia to authorize Glenn R. Nellis, Supervisor to sign the agreement with Erie County Industrial Development Agency on water pipe under

the railroad track on Shadagee Road; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

2. Lateral Restriction on Shadagee Water Line

William Trask, Town Attorney read the following resolution:

LATERIAL RESTRICTION RESOLUTION

WHEREAS, portions of the Shadagee Road Water Project are located within existing Agricultural Districts subject to the jurisdiction of New York State Department of Agriculture and Markets; and

WHEREAS, the Town must provide a Certification to the Commissioner of the New York State Department of Agriculture and Markets as required under New York State Agriculture and Markets Law Section 305(4)(g) in order to assure the Commissioner that the Town has considered the impact of construction of the Project on agricultural properties within the town and will endeavor to protect and continue the promotion of the agricultural uses of such properties in the Town;

THEREFORE BE IT RESOLVED the Eden Town Board adopts a lateral restriction policy as outlined by the New York State Department of Agriculture and Markets for the proposed Shadagee Road Water Project and as further stated herein:

- (1) The only land and/or structures which will be allowed to connect to the proposed waterline within the agricultural district will be:
 - (a) existing structures at the time of construction
 - (b) further agricultural structures and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality. Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval is needed to move forward with project plans and the governing body or their designated agent, has approved the action.
 - (c) subject to the provisions of the Town of Eden Code applicable to subdivision of existing lots of record, water service can be allowed for the first 4 parcels created from a lot of record existing on the date of this resolution within a county adopted, State certified agricultural district, however, service will not be allowed to extend to a fifth or any subsequent subdivided parcel(s) of an existing lot of record where the land is located within a county adopted, State certified agricultural district.
- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident’s property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrates the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the New York State Department of Agriculture and Markets.
- (3) If it can be demonstrated to the Department’s satisfaction that the landowner requested the county to remove his or her land from the agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
- (4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality

are no longer in effect for the parcels of land that have been removed from the agricultural district.

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

3. Setting of Public Hearing on Proposed Eden Farmland Protection Plan – July 22nd

Supervisor Nellis requested setting a Public Hearing for the purpose of the Proposed Eden Farmland Protection Plan on July 22, 2009 at 8:00 p.m.

MOTION was made by Councilwoman Pew to set a Public Hearing for July 22, 2009 at 8:00 p.m. for the purpose of the Proposed Eden Farmland Protection Plan; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? – None; Motion carried.

4. Repeal of Town’s Alarm Law and Garage Sales Permit Law

Supervisor Nellis stated that after review of the Alarm Law with the Police Department, Fire Department and Town Board the general consensus was to repeal the law as it was adopted because of repeated false alarms, which are no longer a problem and it was not being enforced. Also, the Garage Sales Permit Law was adopted because of a perpetual lawn/garage sale, which is no longer a problem and it was not being enforced. There is no cost for the permit.

MOTION was made by Supervisor Nellis to set a Public Hearing for the purpose of repealing the Town of Eden’s Alarm Law and Garage Sales Permit Law for July 8, 2009 at 8:00 p.m.; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

5. Referral from Eden Planning Board Regarding LED (light emitting diodes) Lighting

Supervisor Nellis read correspondence from Mark Agle, Chairman of the Planning Board regarding LED signs being used for business advertising. The Planning Board though this topic may merit further consideration by the Town Board as to whether to amend our sign ordinance to address LED signage.

William Trask, Town Attorney recommended referring this item to the Code Review Committee for their review and input.

MOTION was made by Supervisor Nellis to refer this item to the Code Review Committee to review and report back to the Town Board; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

6. Review and Award of Quote for new Garden Tractor with 54” Mower Deck – Eden Recreation

Supervisor Nellis read correspondence from Susan Brass, Recreation Direction Regarding the request to purchase a New Kubota GR2110 Garden Tractor with a 54” mower deck. Quotes were received from Lamb & Webster at \$7,780.00 and Z & M Ag and Turf at \$8,950.00. The Recreation Department is recommending the low bid of \$7,780.00 from Lamb & Webster. Funds for this item were included in their 2009 approved operating budget.

MOTION was made by Councilman Vacco to award the quote for the New Kubota GR2100 Garden Tractor with a 54” mower deck to Lamb & Webster at \$7,780.00; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

Supervisor's Report:

- Received notification from Time Warner regarding changes in programming.
- “Purple Boxes in the Trees” the NYS Department of Environmental Conservation (DEC) along with other federal and state agencies is setting baited traps in ash trees across upstate New York in an effort to search for possible infestations of the Emerald Ash Borer (EAB), a tree-killing beetle.
- Erie County Department of Economic Development, Environment and Planning has named Supervisor Nellis as a candidate for the 2009 slate of appointments as Consortium representatives to the Project Selection Committee.

Hearing of Visitors:

Frank Mantione, on behalf of the Eden Garden Study Club stated “for the record” that maintaining the Chamber Park is becoming difficult and would like to suggest that the park should be a “town park”.

Councilman Krycia stated “for the record” that the Chamber Park should remain the responsibility of the Eden Chamber of Commerce.

Amy Strawbrich

Adjournment:

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

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