

September 9, 2009

MINUTES

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

Ronald C. Maggs	-	Superintendent of Highways
Michael J. Felschow	-	Chief of Police
Chris Colvin	-	Eden Fire Chief
Scott Henry	-	Code Enforcement Officer

OTHERS PRESENT:

William Trask	-	Town Attorney
Mary Jo Hultquist	-	Town Clerk
Anna M. Knack	-	Administrative Assistant
Ray Zabron	-	Dog Control Officer

Call to Order:

Supervisor Nellis called the Regular Meeting of the Eden Town Board to order at 7:40 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 August 12, 2009; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of August 12, 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 August 26, 2009; there were none.

MOTION was made by Councilman Vacco to approve the Town Board Minutes of August 26, 2009 as presented; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

Petitions:

There were none.

Budget Transfers/Amendments:

From Account	To Account	Reason for Amendment	Amount
SF3410.4 Fire - Contractual	SF3410.2 Fire Equipment	Adjust for overbudget on equipment	\$53.53
SW2140 Wepax Water Revenue	SW8320.401 Wepax Rd -Contractual	Apply Revenue Received for Wepax Rd to expenses incurred	\$586.77
SW2140 Wepax Water Revenue	SW8320.402 Wepax Water -Farnham	Apply Revenue Received for Wepax Rd to expenses incurred	\$273.07

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.

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	483-542	\$37,691.21
Highway Dept. Fund	215-247	\$149,401.56
Fire Dept. Fund	184-215	\$17,684.40
Recreation Dept. Fund	106-117	\$5,896.29
Refuse and Garbage Fund	--	--
Street Lights Fund	20-21	\$3,368.93
Water Fund	25-26	\$5,066.18
Trust & Agency Fund	--	--
Capital Fund	3	\$8,500.00
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 August 2009 were presented by Chris Colvin, Eden Fire Chief; Councilwoman Pew for Andrew Breier, East Eden Fire Chief; Michael Felschow, Eden Police Chief; Ray Zabron, Dog Control Officer; Ronald Maggs, Superintendent of Highways; William Trask, Town Attorney; Mary Jo Hultquist, Town Clerk; Scott Henry, Zoning Code Enforcement Officer; and Supervisor Nellis for Susan Brass, Recreation Director. All reports are on file in the Town Clerk’s office.

Ron Maggs, Highway Superintendent requested up to \$160,000.00 from the Equipment Reserve Account D9950.9 for the purchase of a Mainline Truck as per their replacement schedule from state bid, subject to Permissive Referendum, which has expired without comment.

MOTION was made by Councilman Ventry to transfer \$160,000.00 from the Equipment Reserve Account D9950.9 for the purchase of a Mainline Truck; seconded by Councilman Krycia; All “Ayes”; Opposed? - None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent requested permission to transfer \$576.53 from D5142.4A to D5140.4A as per directed by auditor.

MOTION was made by Councilwoman Pew to transfer \$576.53 from D5142.4A to D5140.4A as per directed by auditor; seconded by Councilman Ventry; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

New and Unfinished Business:

1. Applications for inclusion in Agricultural District

Supervisor Nellis read correspondence from John S. Opalka, Planner for the County of Erie regarding Erie County Legislature designating November 1 through November 30 as the annual thirty-day time period within which a landowner may request predominantly viable agricultural land for inclusion to a certified agricultural district in accordance to Section 303-b of N.Y.S. Agricultural and Markets Law. Copies are available in the Supervisor's office or the Town Clerk's office.

2. Memorandum of Understanding with Eden Police Club

Supervisor Nellis stated that this item be tabled to review and discuss at a future Town Board meeting.

3. Approval of Licensing Agreement on GIS Data with Erie County Water Authority

William Trask, Town Attorney stated that a request for approval of the document of the Licensing Agreement on GIS Data with Erie County Water Authority and also approval for Supervisor Nellis to sign the agreement.

MOTION was made by Councilman Vacco to approve the Licensing Agreement on GIS Data with Erie County Water Authority and authorize Supervisor Nellis to sign the agreement; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

4. Application for Liquor License Renewal for Newell Faulkner Post 880 (Informational)

Supervisor Nellis stated that this item is informational.

5. Local Emergency Management Mutual Aid Assistance – Memorandum of Understanding

Supervisor Nellis stated that this item be tabled to review and discuss at a future Town Board meeting.

6. Off-Road Drainage request

Ron Maggs, Highway Superintendent recommended the approval of Project 2009-06; to recommend Mr. Raro's proposal of cleaning his own ditch at 3196 Hickox road, upon the approval of the Town Attorney.

William Trask, Town Attorney read the following resolution:

HOLD HARMLESS & IDEMNIFICATION AGREEMENT

Between Albert A. Raro, residing at 3196 Hickox Road, Hamburg New York 14075 and Town of Eden, a municipal corporation with offices at 2795 East Church Street, Eden, New York 14057;

WHEREAS, Albert A. Raro (“Indemnitor”) owns premises commonly known as 3196 Hickox Road in the Town of Eden, County of Erie, and State of New York, further identified as SBL No. 209.00-1-4.11 (hereinafter “Premises”), and

WHEREAS, the premises contains a drainage waterway described in an easement recorded in the Erie County Clerk’s office in Liber 9074 and Deeds at Page 643 and

WHEREAS, indemnitor has agreed to hire equipment and perform labor to dredge and clear such drainage waterway in such a manner as will result in better performance of the Stormwater drainage function of such drainage waterway (hereinafter “project”), and

WHEREAS, such work will result in benefits and improvements to the Stormwater drainage situation on Hickox Road and in the neighborhood, and

WHEREAS, the Off Road Drainage Committee of the Town of Eden has recommended that the Town of Eden participate in the cost of such project work by covering the cost of renting the equipment required to undertake such project.

NOW, THEREFORE by executing this agreement, Indemnitor agrees as follows:

1. Indemnitor is solely responsible for designing and undertaking the project work in such a manner as will improve the Stormwater drainage through the drainage waterway and result in improved Stormwater conditions for Hickox Road and the neighborhood.
2. Indemnitor is solely responsible to make sure that all work is done on Indemnitor’s lands and to make sure that there will be no entry onto or negative impact upon any neighboring lands or property.
3. Indemnitor agrees that he is not acting as agent of the Town of Eden in any manner in undertaking this project.
4. Indemnitor agrees to hold harmless and indemnify the Town of Eden from and against all claims, damages or injury to person or property resulting from any activities of the Indemnitor while undertaking this project.
5. Upon completion of the project work and verification of such completion by the Superintendent of Highways of the Town of Eden, the Town of Eden agrees to reimburse indemnitor the actual cost of renting the equipment used in the project, not to exceed \$1,200.00.

MOTION was made by Councilwoman Pew to approve Project 2009-06 and the resolution as presented; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

7. Farmland Protection Resolution

William Trask, Town Attorney stated that the Farmland Protection Plan had been adopted and the next step was to incorporate that Plan into the Master Plan of the Town of Eden for Planning and Zoning, 272-a, amendment to the Master Plan.

Mr. Trask is requesting that the Town of Eden complete the following:

1. Refer the Farmland Protection Plan to the Eden Planning Board for review and recommendation.
2. Authorize Supervisor Nellis to prepare the documents under SEQR.
3. Refer the Farmland Protection Plan to Erie County, form 239-m, Supervisor Nellis to prepare the necessary documents.

MOTION was made by Councilman Ventry to approve the above-mentioned items regarding the Farmland Protection Plan as recommended by Attorney Trask; seconded by Councilman Vacco; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

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Supervisor's Report:

- Called all individuals that were affected by the August 9 storm with information on contacting FEMA for assistance.
- Attended a meeting in Gowanda with FEMA representatives for municipalities that were affected by the storm.

Hearing of Visitors:

Ed Sroda
Robert Heferle

Adjournment:

MOTION was made by Councilman Ventry 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 8:40 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 9:30 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk