

March 10, 2010

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
MARCH 10, 2010
7:30 P.M.**

TOWN BOARD MEMBERS PRESENT:

GLENN R. NELLIS	-	SUPERVISOR
MARY LOU PEW	-	COUNCILWOMAN
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
Scott Hultquist	-	Eden Emergency Squad
Rich Greeley	-	Eden Fire Chief
Andrew Breier	-	East Eden Fire Chief
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 February 10, 2010; there were none.

MOTION was made by Councilman Ventry to approve the Town Board Minutes of February 10, 2010 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
SW2140 Wepax Rd. Revenue \$3,500.00	SW8320.401 SW8320.401 Wepax Rd.	Amend budget to reflect Wepax Road Anticipated revenues and expenditures for 2010	\$2,400.00 \$1,100.00
A1420.1 Attorney Personal	A1420.401 Attorney Contractual Personal	Reclassify appropriation account as Advised by auditors	\$27,400.00
A1440.1 Engineer Personal	A1440.401 Engineer Contractual Personal	Reclassify appropriation account as advised by auditors	\$6,600.00
A1680.1 Central Data Processing Personal	A1680.401 Central Date Processing Contractual Personal	Reclassify appropriation account as advised by auditors	\$16,800.00
A6989.1 Other Economic Assist Personal	A6989.401 Other Economic Assist Contractual Personal	Reclassify appropriation account as advised by auditors	\$4,800.00

MOTION was made by Councilwoman Pew to approve the Budget Transfers/Amendments as presented; 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	79-145	\$79,367.39
Highway Dept. Fund	31-61	\$68,424.54
Fire Dept. Fund	28-46	\$11,939.37
Recreation Dept. Fund	8-20	\$6,288.44
Refuse and Garbage Fund	--	--
Street Lights Fund	2-4	\$5,575.64
Water Fund	4-6	\$5,485.04
Trust & Agency Fund	--	--
Capital Fund	--	--
Community Development	--	--

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

Departmental Reports:

Department reports for the month of February 2010 were presented by Scott Hultquist, Eden Emergency Squad; Rich Greeley, Eden Fire Chief; Andrew Breier, East Eden Fire Chief; Michael Felschow, Eden Police Chief; Ray Zabron, Dog Control Officer; Ronald Maggs, Superintendent of Highways; Dave Johnson, Town Engineer; William Trask, Town Attorney; Mary Jo Hultquist, Town Clerk; Councilwoman Pew for

Scott Henry, Zoning Code Enforcement Officer; and Susan Brass, Recreation Director. All reports are on file in the Town Clerk's office.

New and Unfinished Business:

1. Presentation by Wendel Duchscherer – Proposed Storm Water Utility District

Supervisor Nellis stated that this agenda item would be moved to the Town Board meeting to be held on March 24, 2010.

2. Approval of renewal agreement between the Town and the Eden Emergency Squad for Emergency Ambulance Service for the year 2010

Supervisor Nellis read the following agreement:

**AGREEMENT BETWEEN TOWN OF EDEN AND THE
EDEN EMERGENCY SQUAD, INC. FOR
EMERGENCY AMBULANCE SERVICE IN THE TOWN OF EDEN**

THIS AGREEMENT, made the 10 day of March, 2010 between the Town Board of the Town of Eden, State of New York, (hereinafter "TOWN") and the Eden Emergency Squad, Inc. (hereinafter "EES"), a not-for-profit corporation organized and existing under the laws of the State of New York, with its office and principal place of business in the Town of Eden, State of New York;

WITNESSETH;

WHEREAS, the TOWN owns vehicles, equipment and facilities necessary to provide emergency medical and ambulance services and wishes to continue to make provision for emergency medical, ambulance and rescue services on behalf of residents of the Town of Eden, and

WHEREAS, pursuant to Section 122-b of the New York State General Municipal Law, the TOWN is authorized to provide emergency medical services, general ambulance services or a combination of such services within the boundaries of the Town and, for such purposes, may contract with one or more organizations having sufficient trained and experienced personnel, for operation, maintenance and repair of such emergency medical service or ambulance vehicles and for the furnishing of pre-hospital emergency treatment and general ambulance services, and

WHEREAS, EES has, through its corps of dedicated volunteer members, expertise in providing emergency medical, ambulance and rescue services, and

WHEREAS, the TOWN desires to confirm and continue its contractual arrangement with EES and allow EES to institute a program for revenue recovery for services provided within the Town with such revenue obtained to be used to ease the tax burden and to provide for the continuation and improvement of emergency medical and general ambulance services in the Town by EES.

NOW, THEREFORE, the Town does engage EES to furnish emergency medical, general ambulance and rescue services to said Town of Eden, and EES agrees to furnish such services, in the manner subject to the following provisions:

1. TERM

This AGREEMENT shall be effective from January 1, 2010, until December 31, 2010, unless sooner terminated by the TOWN, and may be renewed annually.

2. MODIFICATION

This AGREEMENT may be modified in writing upon the consent of both parties.

3. EES OBLIGATIONS

EES will provide Advance Life Support (ALS) ambulance, emergency medical, general ambulance services and rescue services to residents of the Town and to non-residents for medical emergencies occurring in the Town. EES will be solely responsible for maintaining and equipping ambulances and providing personnel for the provision of such ALS, emergency medical, general ambulance and rescue services and shall comply with the lawful mandates of the State of New York Department of Health and any regional emergency medical organization for the operation of such services.

4. TOWN'S OBLIGATIONS

In consideration for services provided by EES, the TOWN will provide EES with the ambulance vehicles, equipment and facilities set forth in Schedule "A" of this Agreement, coverage under the New York State Volunteer Ambulance Worker's Benefit Law (VAWBL), together with an annual budgeted payment of \$ TBD, payable in the same manner as has been the past practice of the parties through vouchers submitted by EES to the TOWN. A portion of said payment from the TOWN shall constitute the amount reasonably calculated to reimburse EES for insurance co-payments and deductibles of Town residents. Based upon the foregoing, EES will not seek to collect co-pays or deductibles from Town residents who receive services from EES under this Agreement at the request of the TOWN.

The TOWN will enact such lawful resolutions as necessary to effectuate the intended purposes of this AGREEMENT.

5. REVENUE RECOVERY

EES as the transporting agency will bill patients, their insurers (including private insurers, Medicare and Medicaid) and guarantors at the usual and customary rates established by or approved by the TOWN for the provision of ambulance and emergency medical and rescue services. Bills for services will only be submitted to patients who have received care from EES as permitted by law. The expenses incurred for revenue recovery shall be borne by EES and EES may contract with one or more vendor(s) to supply such revenue recovery services. The terms and conditions of all such contracts for revenue recovery shall be subject to review and approval by the TOWN.

All revenues recovered under the revenue recovery program, net the billing vendors' expenses, shall be remitted by EES to the TOWN on not less than a quarterly basis. Such remittance shall be accompanied by a full and complete report accounting for such revenues, in form satisfactory to the TOWN. It is the intention of the Town to use said revenues in such a manner as will, at the discretion of the Town Board in consultation with EES, allow for the continued support and development of ambulance, emergency medical and rescue services while minimizing or eliminating the taxpayer burden required for such services.

6. INDEMNIFY

To the fullest extent permitted by law, EES will indemnify and hold harmless the TOWN for any claims for personal injuries or other damages arising out of EES's operations under the AGREEMENT. To the fullest extent permitted by law, the TOWN will indemnify and hold harmless

EES for any claims for personal injuries or other damages arising out of the TOWN's obligations under this AGREEMENT.

7. INSURANCE

The TOWN shall be named "additional insured" on any policies of liability or errors or omissions coverage which EES may determine to purchase to cover claims arising out of the operations of EES in providing emergency medical care, transportation, rescue services or in the operation of its revenue recovery program. EES will provide a certificate(s) of insurance to the TOWN evidencing the existence of such coverage and the additional insurance endorsement.

8. AUDIT AND FINANCIAL CONTROL

On an annual basis, EES will have an audit of its financial status and revenue recovery performed by a certified public accountant and such audit shall be provided to the TOWN. On a quarterly basis, EES will provide the TOWN with reports prepared by EES or its billing vendor evidencing the amount of calls generating bills and the revenue billed and received, and such additional information or data as may be required by the TOWN.

9. SEVERABILITY

To the extent permitted by law, if any provision of this AGREEMENT is deemed by a Court of competent jurisdiction to be void or voidable, all other provisions shall remain enforceable and effective.

MOTION was made by Councilman Krycia to authorize Supervisor Nellis to sign the AGREEMENT along with the President of Eden Emergency Squad and the Directors of Operations of the Eden Emergency Squad; seconded by Councilman Vacco; All "Ayes"; Opposed - None; Abstain? - None; Motion carried.

3. Approval of Bid for Motor Fuels and Related Services

Ron Maggs, Highway Superintendent recommended awarding the Motor Fuels and Related Services bid to Page Harms Oil Co., being the only bidder. The bid results are as follows:

No-Lead Gas	\$2.2469
Diesel Fuel	\$2.2513
Kerosene	\$2.7183
Hourly Rate	\$0.00

MOTION was made by Councilwoman Pew to award the fuel bid to Page Harms Oil Co., based on the recommendation of Ron Maggs, Highway Superintendent; seconded by Councilman Vacco; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

4. Approval of Intermunicipal Agreement between the Town of Eden and Erie County to reduce the volume of required referrals to the County Planning Agency pursuant to New York general Municipal Law Section 239m

**AGREEMENT BETWEEN THE COUNTY OF ERIE
AND THE TOWN OF EDEN**

THIS AGREEMENT made this 10th day of March, 2010 by and between the **COUNTY OF ERIE**, a municipal corporation of the State of New York, with principal offices located at 95 Franklin Street, Buffalo, New York 14202, hereinafter referred to as the "County", and the **TOWN OF EDEN**, a municipal corporation of the State of New York,

with principal offices located at 2795 East Church Street, Eden, New York 14057, hereinafter referred to as the “Municipality”,

WHEREAS, pursuant to General Municipal Law Section 239-m, certain proposed municipal zoning actions must be submitted to a county planning agency for review and recommendation before the municipality makes a final determination of such zoning actions; and

WHEREAS, General Municipal Law Section 239-m also allows municipal agencies and the County to enter into agreements whereby certain zoning actions do not have to be submitted to a county planning agency for review and recommendations before the municipality makes a final determination on such zoning actions; and

WHEREAS, the purpose of this Agreement is to recognize that certain zoning actions do not have intermunicipal or countywide significance and, therefore, are best handled at the local municipal level without referral to the county planning agency for review and recommendation; and

WHEREAS, eliminating such referral would assist to streamline the County’s review process and at the same time to assist to reduce administrative costs for both the Municipality and the County.

NOW, THEREFORE, it is mutually agreed by and between the parties:

- I. The County and the Municipality agree that the following actions will not need a review by the county planning agency.
 1. Permits for temporary structures and temporary signs used during construction of permanent structures so long as the temporary placement is not within the required setback from a county or state highway or from abutting county or state land.
 2. Setback variances for such matters including, but no limited to, garages, storage sheds, additions to structures, swimming pools and freestanding signs unless the variance would reduce the setback from a county or state highway or from abutting county or state land or involve a national or state registered historic site.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year first written above.

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

5. Resolution – Proposed Water District No. 5

Supervisor Nellis stated that this agenda item would be moved to the Town Board meeting to be held on March 24, 2010.

6. Resolution – Supporting State Farmland Protection

Supervisor Nellis read the following resolution:

**RESOLUTION URGING THE NEW YORK STATE LEGISLATURE
TO SUPPORT THE STATE’S FARMLAND PROTECTION PORGRAM
AND ENVIRONMENTAL PROTECTION FUND**

WHEREAS, agriculture is a significant contributor to New York’s economy; and

WHEREAS, farms provide jobs, support local businesses and are part of industry sectors that have a \$23 billion economic impact annually in New York; and

March 10, 2010

WHEREAS, farms comprise 7 million acres of land in New York, roughly 25% of the state's land base; and

WHEREAS, farmers have a strong track record of pro-active environment stewardship in New York; and

WHEREAS, rapidly changing economic conditions threaten the future viability of New York's agricultural industry; and

WHEREAS, 26,000 acres of farmland are developed each year in New York; and

WHEREAS, the State of New York established a Farmland Protection Program in 1992 to assist towns and counties in developing and implementing local agricultural and farmland protection plans; and

WHEREAS, over \$3 million has been awarded by the Farmland Protection Program to 50 counties and 52 towns to assist in the development of local agricultural and farmland protection plans; and

WHEREAS, the Farmland Protection Program has awarded more than \$173 million to help farmers, local governments and land trusts permanently protect 74,000 acres on 303 farms; and

WHEREAS, demand for Farmland Protection Program funding has been strong due to the program's popularity, with a record 181 farms seeking \$156 million in state funding to protect 49,500 acres in 2008; and

WHEREAS, funding for the Farmland Protection Program is allocated from the state's Environmental Protection Fund (EPF), a dedicated fund whose principle funding source is a state Real Estate Transfer Tax (RETT); and

WHEREAS, the Governor and State Legislature must take steps this year to protect New York's valuable farmland and strengthen the future for farms across New York;

NOW, THEREFORE BE IT RESOLVED that the Town of Eden does hereby urge state lawmakers to support New York's farmers, the state's agricultural economy and protection of valuable farmland by supporting funding for the Farmland Protection Program Fund, as outlined in the Governor's FY 2010-11 Budget Proposal; and

BE IT FURTHER RESOLVED that the Town of Eden does hereby oppose drastic cuts to the Farmland Protection Program and Environmental Protection Fund, as outlined in the Governor's FY2010-11 Budget Proposal; and

BE IT FURTHER RESOLVED that the Clerk of the Town of Eden is hereby directed to forward copies of this resolution to Governor Paterson, Senate Republican Leader Dean Skelos, Senate Democratic Leader Malcolm Smith, Assembly Speaker Sheldon Silver, Senator William Stachowski, Assemblyman Jack Quinn and the American Farmland Trust.

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

7. Resolution authorizing bids to be advertised for construction of the Shadagee Road Transmission Waterline

Supervisor Nellis read the following resolution:

**RESOLUTION
TOWN OF EDEN**

March 10, 2010

**EDEN TOWN BOARD
MARCH 10, 2010**

WHEREAS, on June 25, 2008, pursuant to Resolution and Order of the Eden Town Board, a Public Hearing was held to consider the joint increase and improvement of facilities of the Town of Eden Consolidated Water District and Water Districts No. 1, 2, 3, 3A and 4 (collectively, the "Districts"), in said Town, and

WHEREAS, following said Public Hearing, the Eden Town Board did adopt a Resolution and Order approving the joint increase and improvements which were subject of the Public Hearing, and

WHEREAS, the Eden Town Board has previously authorized and approved such borrowings as are required to finance such joint increase and improvements and

WHEREAS, the Eden Town Board has been advised by project engineers, Conestoga, Rovers and Associates (hereafter "CRA") that all necessary agencies have approved the design and engineering for such facilities and

WHEREAS, CRA has prepared such plans and specification as are necessary to competitively bid the project work and

WHEREAS, CRA has recommended that the Town Board proceed to advertise the project and receive bids.

NOW, THEREFORE it is hereby

RESOLVED, that such advertisements and legal notices as may be required shall be published and posted no later than March 18, 2010 for purposes of soliciting bids pursuant to such plans and specifications, and it is further

RESOLVED that sealed bids and appropriate bid security will be received for opening no later that April 9, 2010 at 10:00 a.m. and it is further

RESOLVED that the Eden Town Board understands that such bid documents will contain a provision making any award subject to and contingent upon Rural Development giving final approval on it financing package.

MOTION was made by Supervisor Nellis to approve the resolution as presented and set the bid opening date for **Friday, April 9, 2010 at 10:00 a.m.**; seconded by Councilwoman Pew; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

8. Resolutions related to Eden Emergency Squad

Supervisor Nellis read the following resolution:

**NOTICE OF ADOPTION OF RESOLUTION
TOWN OF EDEN**

Notice is hereby given that on March 10, 2010, the Town Board of the Town of Eden did adopt the following Resolution:

The Town Board of the Town of Eden, duly convened in regular session, does Hereby resolve pursuant to the provisions of Section 6-c of the General Municipal Law of the State of New York that the Town Supervisor of the Town of Eden be And is hereby authorized and directed to transfer from the Emergency Squad Capital (Equipment) Reserve Fund of the Town of Eden to the Ambulance Contractual Account A4540.2, a sum not to exceed \$35,200.00 from said Reserve Fund to purchase one new LifePak 15 heart monitor/defibrillator under New York State Contract.

March 10, 2010

This resolution shall be subject to a permissive referendum, as permitted by law.

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

Supervisor Nellis read the following correspondence from Scott Hultquist, Director of Operations of the Eden Emergency Squad dated February 2, 2010;

Intention of use for Fly Car

"The goal of the vehicle will be to provide Town residents with the highest level of care, in a reduced time frame. The vehicle and staff utilizing the vehicle will not be permitted to respond to a mutual aid call unless directed to do so by a Line Officer of the Eden Emergency Squad. The vehicle will be equipped with all necessary advanced level care equipment, allowing us to deliver state of the art patient care. We will also be able to orchestrate multi-causality incident including fire and police emergency. It will have communication equipment allowing any organization to communicate with any and all mutual aid companies. A laptop will be on board allowing us to utilize the GIS system, Pictometry and topographical maps of the Town.

It is the general understanding that all agencies will be able to utilize all the components of this vehicle. With the knowledge its primary responsibilities will be patient care, and may need to leave a scene to respond to a medical emergency. I have contacted Police Chief Mike Felschow, Eden Fire Chief Rich Greeley, East Eden Fire Chief Andy Breier and Disaster Coordinator Bob Stickney. They are all aware that the vehicle will be on every scene we are dispatched to for their use. The Emergency Squad will be responsible for housing, fueling and maintaining the vehicle." Respectfully submitted, Scott Hultquist, Director of Operations.

MOTION was made by Councilwoman Pew that the Eden Emergency and Rescue Squad be authorized to purchase one new 2010 Ford Expedition under State Contract Bidding, to be used as a Fly Car, at a cost not to exceed \$45,100.00. Money from the Emergency Squad Revenue Recovery Program will be used to purchase this vehicle; seconded by Councilman Krycia; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

Supervisor Nellis read the following resolution:

Notice is hereby given that on March 10, 2010 the Town Board of the Town of Eden did adopt the following resolution:

The Town Board of the Town of Eden, duly convened in regular session, does hereby resolve pursuant to the provisions of Section 6-c of the General Municipal Law of the State of New York that the Town Supervisor of the Town of Eden be and is hereby authorized and directed to transfer from the Emergency Squad Capital (Equipment) Reserve Fund of the Town of Eden to the Ambulance Equipment Account A4540.2, a sum not to exceed \$130,000.00 from said Reserve Fund to purchase one new, used or demo ambulance, per bid specifications from Eden Emergency Squad.

This resolution shall be subject to a permissive referendum, as permitted by law.

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

Supervisor Nellis requested authorization to advertise for bids and set a bid opening date for the purchase one new, used or demo ambulance, per bid specification from Eden Emergency Squad and approval of bid specs by William Trask, Town Attorney.

March 10, 2010

MOTION was made by Councilman Ventry to authorize the advertisement for bids and set a bid opening date of **Monday, April 12, 2010 at 10:00 A. M.** in the Town Clerk's office for a new, used or demo ambulance, per bid specifications from Eden Emergency Squad and approval of Town Attorney William Trask; seconded by Councilman Vacco; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

9. East Eden Fire Hall – Concrete Slab Replacement and Trench Drain Installation Project

Supervisor Nellis requested authorization to advertise for bids and set a bid opening date for the construction of concrete slab replacement and trench drain installation project for the East Eden Fire Hall.

MOTION was made by Councilwoman Pew to set the bid opening date for **Wednesday, April 7, 2010 at 10:00 A.M.** in the Town Clerk's office for the construction of a concrete slab replacement and trench drain installation project for the East Eden Fire Hall; seconded by Councilman Krycia; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

Supervisor's Report:

- Meeting April 1, 2010 at the East Aurora Boys/Girls Club regarding the flood insurance program.
- Meeting March 15, 2010 at the Eden Town Hall for HEAP.
- Meeting March 18, 2010 at ECC South Campus for proposed changes to the bus route by NFTA.

Hearing of Visitors:

Mike Bolo

Adjournment:

MOTION was made by Councilman Ventry 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 8:55 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 10:40 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk