

September 8, 2010

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
SEPTEMBER 8, 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 (*Absent*)
RICHARD S. VENTRY - COUNCILMAN (*Absent*)

DEPARTMENT HEADS PRESENT:

Dave Johnson - Town Engineer
Ronald C. Maggs - Superintendent of Highways
Michael J. Felschow - Chief of Police
Rick Kirst - East Eden Fire Chief
Ray Zabron - Dog Control Officer

OTHERS PRESENT:

William Trask - Town Attorney
Mary Jo Hultquist - Town Clerk
Lisa Greiner - Administrative Assistant

Call to Order:

Supervisor Nellis called the Regular Meeting of the Eden Town Board to order at 7:45 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 11, 2010; there were none.

MOTION was made by Councilman Krycia to approve the Town Board Minutes of August 11, 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
D8782 Highway Reserve	D5130.2 Central Garage Contractual	Budget transfer per permissive referendum for new dump truck	\$26,328.50
A1355.1 Assessor Personal	A1355.4 Assessor	Transfer amount budgeted from	

	Contractual	assessment board of review to .4 account as per auditors	\$465.00
A1640 Revenue Recovery	A4540.4 Squad-Contractual	Offset insurance recovery money received from squad to cover squad expenses	\$16,000.00

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.

Supervisor Nellis requested the addition of a voucher for payment for E & R Construction, Inc. for \$556,373.20 for account H8320.401.

MOTION was made by Supervisor Nellis to approve the payment to E & R Construction, Inc. for \$556,373.20, Account H8320.401; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	484-535	\$45,295.31
Highway Dept. Fund	238-271	\$112,454.39
Fire Dept. Fund	154-166	\$9,320.16
Recreation Dept. Fund	112-122	\$3,478.12
Refuse and Garbage Fund	12	\$47,660.60
Street Lights Fund	19-20	\$3,618.17
Water Fund	19-20	\$5,448.10
Trust & Agency Fund	--	--
Capital Fund		
H3410.2	5	\$8,099.13
H8320.401	26	\$2,784.00
H8320.402	9-10	\$5,207.25
Community Development	--	--

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

Departmental Reports:

Department reports for the month of August 2010 were presented by Rick Kirst for 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; Supervisor Nellis for Scott Henry, Zoning Code Enforcement Officer; Supervisor Nellis for Susan Brass, Recreation Director. All reports are on file in the Town Clerk’s office.

Ron Maggs, Highway Superintendent reported that the Clarksburg Road project would be starting on Monday, September 13th. During the pre-construction meeting the concern of the fragile nature of the road was discussed with the transfer of heavy material during construction. The concern of who would make the repairs to the road, if damaged, as it was not part of the bid specifications. Attorney Trask will draft a letter to the contractor giving Ron Maggs, Highway Superintendent authorization to monitor the construction process regarding the load of the trucks.

William Trask, Town Attorney stated that the drainage easement has finally been rectified at 8426 Randall Place and that authorization is needed for Supervisor Nellis to sign the document and Mr. Trask will then file the appropriate paperwork with the County Clerk.

MOTION was made by Councilman Krycia to authorize Supervisor Nellis to sign the documents to be filed with the County Clerk for the drainage easement at 8426 Randall Place; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

New and Unfinished Business:

1. Approval of bid on blacktop sealing

Supervisor Nellis read the following bid results:

Bidder	Municipal Lot	Swartz Field	Total
Seal-Rite Black Top Sealing	\$690.00	\$890.00	\$1580.00
Ballou Paving and Sealing	\$1100.00	\$850.00	\$1950.00
Summertime Services	\$945.00	\$895.00	\$1840.00

MOTION was made by Supervisor Nellis to award the bid to Seal-Rite Black Top Sealing at a total price of \$1580.00; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

2. Off-road drainage approval

Supervisor Nellis read a report from Ron Maggs, Chairperson of the Off-Road Drainage Committee recommending the following projects:

1. Recommending to approve Project 2010-06 – Cleaning Ryther Creek at Hemlock Road for about 300’ in each direction at a cost not to exceed \$3,000.00
2. Recommending to approve Project 2010-07 – Cleaning the ditch starting at the end of Hunt Avenue and going to Ryther Creek at a cost not to exceed \$3,000.00

MOTION was made by Supervisor Nellis to approve the recommendations of the Off-Road Drainage Committee; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

3. Water District #5 contract approvals/other related actions

RESOLUTION AND ORDER OF THE TOWN OF EDEN, NEW YORK, ADOPTED SEPTEMBER 8, 2010, CONCERNING THE APPLICATION TO THE STATE COMPTROLLER FOR THE APPROVAL OF TOWN OF EDEN WATER DISTRICT NO. 5, IN SAID TOWN.

At a meeting of the Town Board of the Town of Eden, Erie County, New York (the “Town”), held at the Town Hall, 2795 East Church Street, Erie, New York on September 8, 2010 at 7:30 p.m. Eastern Prevailing Time.

RESOLUTION AND ORDER OF THE TOWN OF EDEN, NEW YORK, ADOPTED SEPTEMBER 8, 2010, CONCERNING THE APPLICATION TO THE STATE COMPTROLLER FOR THE APPROVAL OF TOWN OF EDEN WATER DISTRICT NO. 5, IN SAID TOWN.

WHEREAS, the Town Board of the Town of Eden (herein called "Town Board" and "Town", respectively), in the County of Erie, New York, has, pursuant to Town Law Article 12-A, caused CRA Infrastructure & Engineering, Inc. competent engineers duly licensed by the State of New York, to prepare a map, plan and report for the establishment of Water District No. 5 (the "District"), which map, plan and report is on file at the office of the Town Clerk, and available for public inspection at said location; and

WHEREAS, an amendment to such original map, plan and report was made by CRA Infrastructure & Engineering, Inc. to account for all the benefited properties, and only such benefited properties, to be included in the proposed District and such amended map, plan and report is on file at the Town Clerk, and available for public inspection at said location; and

WHEREAS, such amended map, plan and report (hereinafter referred to as map, plan and report) has not been modified in any material respect other than as described above; and

WHEREAS, said map, plan and report proposed a water system to be installed along roadways and within right-of-ways previously disturbed by the construction of roads, ditches and utilities. The District will receive water from the Erie County Water Authority through various transmission mains. Approximately 23,100 lineal feet of 8-inch waterline will be installed along roadways in the District including, but not limited to, Ferrier Road, March Road, Shadagee Road and Hemlock Road, including all related right-of-way costs, new service installation, site work and other ancillary work, including hydrants, valves, apparatus, preliminary costs and other improvements and costs incidental thereto (collectively referred to herein as "Water Improvement"); and

WHEREAS, the maximum amount proposed to be expended for the Water Improvement is estimated to be \$2,550,000; and

WHEREAS, in addition to the benefits specifically attributable to the residents in the proposed District, the construction of the Water Improvement will also provide the following benefits to all existing (and proposed) water districts and customers: (i) improve the quality of the public water supply; (ii) improve the stability of the entire water supply; (iii) increase transmission capacity by connecting to the existing system and looping the waterlines; (iv) improve fire flow protection; and (v) remove dead end water lines; and

WHEREAS, in light of the overall improvements the Water Improvement will have in the existing districts, the Town Board has determined to allocate approximately 20% (approximately \$550,000) of the cost of the Water Improvement to residents in the existing water districts through a separate Town proceeding scheduled to take place at a later date and intends to levy special assessments against the properties in the existing districts as determined by law; and

WHEREAS, the cost of the Water Improvement attributable to the residents in the proposed new District is \$2,000,000, which amount is to be financed by the issuance of serial bonds in an amount not to exceed \$2,000,000, offset by any federal, state, county and/or local funds received and the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon

the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law; and

WHEREAS, the Town Board has pursuant to an Order Calling for a Further Public Hearing, which Order was duly posted and published, held a public hearing on June 2, 2010 to consider the creation of the proposed District, at which hearing all members of the public were given an opportunity to be heard.

WHEREAS, following said public hearing, the Board approved a resolution, calling for a mandatory referendum on the establishment of the proposed District and stating that such approval would also be subject to approval of the NYS Comptroller; and

WHEREAS, such June 2, 2010 resolution was approved by the voters in the proposed District at a special referendum held on August 3, 2010; and

WHEREAS, subsequent to such voter approval in favor of the establishment of the proposed District, the Town Supervisor, assisted by engineers for the Town, Town Attorney, and Bond Counsel, to prepare an application for approval of the creation of the District in the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN ERIE, as follows:

1. That the creation of the District has been approved by the voters in the District and may not yet be formally created until approval of the State Comptroller has been obtained.

2. That the attached application for permission of the State Comptroller was prepared as directed by this Board.

3. That the Board believes the contents of the application to be accurate.

4. That the Board has determined that the proposed District, for which permission is requested, is in the public interest and will not constitute an undue burden on the properties which will bear the cost thereof.

5. That all properties and property owners benefited by the improvements are included in the District.

6. That all properties and property owners included in the District are benefited thereby.

7. That no benefited property has been excluded.

8. That the Board authorizes the Supervisor to finalize and submit such application in substantially the attached form.

8. This Resolution and Order shall take effect immediately.

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

Supervisor Nellis stated that approval is needed to authorize Municipal Solutions to provide financial advisory services in connection with the Town of Eden Water District #5, not to exceed \$36,000.00

MOTION was made by Supervisor Nellis to authorize Municipal Solutions to provide financial advisory services in connection with the Town of Eden Water District #5, not to

exceed \$36,000.00; seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis stated that approval is needed to authorize the professional services of CRA not to exceed \$335,000.00, plus total hours.

MOTION was made by Supervisor Nellis to authorize the professional services of CRA to provide their professional services not to exceed \$335,000.00, plus total hours; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

4. Resolution to enter into 2010-2012 Snow Removal and Ice Control Agreement with Erie County

Supervisor Nellis requested authorization to sign the County Snow and Ice Control Agreement, upon recommendation of Ron Maggs, Highway Superintendent, for a 3-year period starting September 1, 2010 through August 31, 2013 with the lane reimbursement rate by the County to the Town increasing by 5% each contract year.

MOTION was made by Councilman Krycia to authorize Supervisor Nellis to sign the County Snow and Ice Control Agreement, upon recommendation of Ron Maggs, Highway Superintendent, for a 3-year period starting September 1, 2010 through August 31, 2013 with the lane reimbursement rate by the County to the Town increasing by 5% each contract year; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

5. Closing of portion of New Oregon Road (from Belcher Rd. to Boston Rd.) 8/26/10 – 10/12/10

Supervisor Nellis stated that this closing is informational in nature and only affects part of Eden School District.

6. Speed Limit Review Committee Recommendations

Ron Maggs, Chairperson, Speed Limit Committee reported that a meeting was held on August 24, 2010 and it was discussed at length that this committee is an advisory committee and can only make recommendations to the Town Board for their approval.

The next scheduled meeting for the Speed Limit Review Committee is set for September 15, 2010 at 9:30 a.m.

7. Notification of liquor license renewal from Four Corners Café.

Notice was received from the Four Corners Café regarding the request for the renewal of their liquor license. This is informational in nature.

8. Schedule Fire District Budget Public Hearing for October 19, 2010

Supervisor Nellis requested scheduling the public hearing for the Fire District Budget for October 13, 2010 at 8:30 p.m.

MOTION was made by Supervisor Nellis to schedule the Public Hearing for the Fire District Budget for October 13, 2010 at 8:30 p.m.; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

9. Recommendation by Recreation Department for staff appointments for Dolphins Swim Club Coaches

Supervisor Nellis read correspondence from Susan Brass, Recreation Director requesting the following appointments:

Chris Nellis as Head Swim Coach of the Eden Dolphins Swim Club. September through August at a pay rate of \$20.00/hour.

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Linda Sherry as Assistant Swim Coach of the Eden Dolphins Swim Club. September through August at a pay rate of \$15.00/hour.

Jon Bettinger as a Student Swim Coach of the Eden Dolphins Swim Club. September through March at a pay rate of \$10.00/hour.

Kevin Kaiser as a Student Swim Coach of the Eden Dolphins Swim Club. September through March at a pay rate of \$10.00/hour.

MOTION was made by Councilwoman Pew to approve the appointments as stated, except for Chris Nellis (Supervisor Nellis would abstain from the vote and then there wouldn't be a quorum); seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

10. Recommendation by Recreation Department of sale of surplus equipment – lawn tractor and rototiller

Supervisor Nellis read the recommendation of the Recreation Advisory Board to advertise and sell a 1996 GT 75 New Holland Tractor and 36" rototiller as surplus equipment.

MOTION was made by Supervisor Nellis to declare the 1996 GT75 New Holland Tractor and 36" rototiller surplus equipment; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

MOTION was made by Councilman Krycia to advertise and sell the 1996 GT75 New Holland Tractor and 36" rototiller; seconded by Councilwoman Pew; All "Ayes"; Opposed?- None; Abstain? – None; Motion carried.

11. Recommendation to appoint another engineering firm to review Beverly Subdivision

Supervisor Nellis read correspondence from Mark Agle, Planning Board Chairman regarding the Minekime-Beverly Subdivision. Mr. Minekime's Engineer of record is Nussbaumer & Clarke and since they have become the Town Engineer firm, the Planning Board requests that the Town Board consider engaging the services of an independent engineering firm for the purposes of reviewing the subdivision plans and related submissions.

Supervisor Nellis stated that previously Dave Britton from CRA had been hired to handle a similar situation and would make a request to see if he is available at this time.

Attorney Trask suggested that they seek a proposal from CRA and other engineering firms as necessary.

MOTION was made by Supervisor Nellis to seek a proposal from CRA and other engineering firms as necessary to review the Minekime-Beverly Subdivision as recommended by Mark Agle, Planning Board Chairman; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

12. Reschedule Public Hearing on Indoor/Outdoor Storage Facility

This item was moved to "Old Business" to be reviewed and discussed at a future Town Board Meeting.

13. Reschedule Public Hearing on Proposed Local Law #1-2010

Supervisor Nellis stated that due to publishing issues with the Hamburg Sun this Public Hearing would be rescheduled for October 13, 2010 at 8:00 P.M.

MOTION was made by Supervisor Nellis to reschedule the Public Hearing for Proposed Local Law #1-2010 for October 13, 2010 at 8:00 P.M.; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

14. Reschedule Public Hearing on Proposed Local Law #2-2010

Supervisor Nellis stated that due to publishing issues with the Hamburg Sun this Public Hearing would be rescheduled for October 13, 2010 at 8:15 P.M.

MOTION was made by Supervisor Nellis to reschedule the Public Hearing for Proposed Local Law #2-2010 for October 13, 2010 at 8:15 P.M.; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

15. Insurance Program for Town of Eden

Supervisor Nellis stated that a meeting had been held with Ronald Miller from The Evans Agency regarding some changes to the insurance policy. The policy will increase approximately \$5,000.00. Attorney Trask stated that the Evans Agency has provided a high level of services through the years.

MOTION was made by Supervisor Nellis to approve the increase of \$5,000.00; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

It was discussed that the Supervisor contact Ronald Miller, The Evans Agency regarding adding Town Employees that should be included to be bonded, such as Deputy Town Clerks/Deputy Tax Collectors, Court Clerks, Recreation Director and Dog Control Officer.

16. Resignation of Part-time Police Officer

Supervisor Nellis read correspondence from Mike Felschow, Police Chief regarding the resignation of Gregory Szarowicz as part-time Police Office. Mr. Szarowicz has accepted a full-time position with the Town of Evans Police Department.

MOTION was made by Councilwoman Pew to accept the resignation of Gregory Szarowicz as part-time Police Officer; seconded by Supervisor Nellis; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor’s Report:

- Discussed recommendation from Eden Planning Board in connection with the application for a Special Use Permit to allow Recreational Vehicle Storage at 8800 South Main Street.
- Scrap Metal and Tire drop-off at Eden Highway Department on October 16, 2010 from 9:00 a.m. to 1:00 p.m.

Hearing of Visitors:

There were none.

Adjournment:

MOTION was made by Supervisor Nellis 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 9:20 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

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