

September 12, 2012

**MINUTES**

**REGULAR MEETING – EDEN TOWN BOARD  
2795 EAST CHURCH STREET  
EDEN, NEW YORK  
SEPTEMBER 12, 2012  
7:30 P.M.**

**TOWN BOARD MEMBERS PRESENT:**

GLENN R. NELLIS	-	SUPERVISOR
MARY LOU PEW	-	COUNCILWOMAN ( <i>Absent</i> )
EDWARD KRYCIA, JR	-	COUNCILMAN
RICHARD S. VENTRY	-	COUNCILMAN
FRAN MCLAUGHLIN	-	COUNCILMAN

**DEPARTMENT HEADS PRESENT:**

Dave Johnson	-	Town Engineer
Ronald C. Maggs	-	Superintendent of Highways
Michael J. Felschow	-	Chief of Police
Jack Rigley	-	Eden Fire Chief
Andrew Breier	-	East Eden Fire Chief
Robert Pietrocarlo	-	Chairman Board of Assessors
Susan Brass	-	Recreation Director

**OTHERS PRESENT:**

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

**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.

Supervisor Nellis introduced Mitch Martin, a representative from Senator Gallivan's office attending to answer questions or concerns of residents of Eden.

**Approval of Minutes:**

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of August 8, 2012; there were none.

**MOTION** was made by Councilman Ventry to approve the Town Board Minutes of August 8, 2012 as presented; seconded by Councilman McLaughlin; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

**Petitions:**

There were none.

**Budget Transfers/Amendments:**

<b>From Account</b>	<b>To Account</b>	<b>Reason for Amendment</b>	<b>Amount</b>
D878.2 Hwy. Equipment Reserve	D5130.2 Machinery-Equipment	Use of Reserve for purchase of truck per permissive ref.	\$15,550.00
D5110.4 Roads - Contractual	D5110.401 Roads – Contractual FEMA	FEMA work on Hammond South	\$547.05
D2089 Bicentennial	D7550.401 Celebrations – Bicentennial	Bicentennial Income to offset Bicentennial expenses	\$1,800.00
A4540.4 Ambulance – Contractual	A4540.2 Ambulance – Equipment	For accessories for equipment purchase	\$3,165.10

**MOTION** was made by Councilman Krycia to approve the Budget Transfers/Amendments as presented; seconded by Councilman McLaughlin; 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.

<b>DESCRIPTION</b>	<b>VOUCHER NUMBERS</b>	<b>AMOUNT</b>
General Fund	540-617	\$69,147.94
Highway Dept. Fund	242-276	\$244,588.09
Fire Dept. Fund	171-194	\$20,455.72
Recreation Dept. Fund	108-119	\$4,888.70
Refuse and Garbage Fund	13	\$36,585.36
Street Lights Fund	23-25	\$5,277.18
Water Fund	24-26	\$4,492.86
Trust & Agency Fund	--	--
Capital Fund		
H3410.2	12-13	\$1,943.00
H8320.402	8—9	\$16,428.89
Community Development	--	--

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

**Departmental Reports:**

Department reports for the month of August 2012 were presented by Jack Rigley, Eden Fire Chief; Andrew Breier, East Eden Fire Chief; Michael Felschow, Eden Police Chief; Mike Felschow for 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; Susan Brass, Recreation Director; Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

Ron Maggs, Highway Superintendent, acting as Off Road Drainage Committee Chairperson recommended that the Town Board approve the following project that the committee has agreed upon.

Project 2011-04; Miscellaneous Mowing to be done by the Highway Department at a cost not to exceed \$1,500.00.

**MOTION** was made by Councilman McLaughlin to approve Project 2011-04 as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**New and Unfinished Business:**

**1. Presentation by former Eden Jay Cees of award from Corn Festival Committee**

Supervisor Nellis introduced former members of the Eden Jay Cees, Dick Casseri, Paul Sovereign, Jack Smith and Gary Eye after receiving an award from the Corn Festival Committee. This award will be displayed in the showcase on the second floor of the Town Hall.

**2. Ratification of Resolution urging Eden Library Board**

Supervisor Nellis read the following resolution:

**RESOLUTION AGAINST THE PROPOSED  
LIBRARY MEMORANDUM OF UNDERTANDING**

**WHEREAS**, the Buffalo and Erie County Public Library, through its Trustees and Senior Staff, continue to develop a Memorandum of Understanding, which would establish a top on down structure for governing the Library system; and

**WHEREAS**, the proposed top on down structure will strip local community boards of trustees of any authority over their local library; and

**WHEREAS**, this work is continuing without full discussion with either municipal governments(s) affected by their actions, many of whom own the local libraries buildings and grounds; and

**WHEREAS**, this work is continuing also without on-going discussions with either the County Executive or County Legislature; and

**WHEREAS**, this process is putting pressure on local library boards of trustees to support this effort always with the fear of retribution if they don't go along with the process; and

**WHEREAS**, the Memorandum of Understanding proposed the setting up of a special taxing district for libraries, thus introducing another taxing level to local governments;

**NOW, THEREFORE BE IT RESOLVED** that the Eden Town Board goes on record opposing this “Memorandum of Understanding” which sets up a new taxing district and strips our local Library Board of Trustees of its authority; and

**BE IT FURTHER RESOLVED** that we urge our Eden Library Board of Trustees not to sign this proposed Memorandum of Understanding; and finally

**BE IT FURTHER RESOLVED** that we ask other municipalities to join us in opposition to this proposed plan.

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

**MOTION** was made by Councilman Ventry to close the Regular Meeting of the Eden Town Board and open the Public Hearing; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis closed the Regular Meeting at 8:00 p.m. and opened the Public Hearing.

**8:00 p.m.**  
**Public Hearing**  
**Establishment of Town of Eden**  
**Drainage District No. 5**

Supervisor Nellis explained the purpose of the public hearing was to listen to any concerns or questions that citizens have.

Supervisor Nellis explained that there are 12 lots on Beverly Drive and 2 lots on Schreiner Road.

Supervisor Nellis asked if there were any comments:

Councilman Ventry received written correspondence, which is on file in the Supervisor’s office.

There were no other comments.

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 Ventry to close the Public Hearing and return to the Regular Meeting of the Town Board; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**3. Review/Approval of Trident Insurance Company**

Supervisor Nellis requested Trident Insurance be ratified as the Town of Eden Insurance Company at a total cost of \$84,127.36.

**MOTION** was made by Councilman Krycia to ratify Trident Insurance as the Insurance Company for the Town of Eden at a cost of \$84,127.36; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**4. Review/Approval of policy statement for Town of Eden**

- **Employee Protection (Whistleblower) Policy**

Supervisor Nellis presented the following policy:

**EMPLOYEE PROTECTION (WHISTLEBLOWER) POLICY**

If any employee reasonably believes that some policy, practice or activity of the Town of Eden is in violation of law, that employee must file a written complaint with the Supervisor or a member of the Town Board.

It is the intention of the Town of Eden to adhere to all laws and regulations that apply to the Town and the underlying purpose of this policy is to support the Town’s goal of legal compliance. The support of all employees is necessary to achieving compliance with various laws and regulations. An employee is protected from retaliation only if the employee brings the alleged unlawful activity, policy, or practice to the attention of the Town of Eden and provides the Town of Eden with a reasonable opportunity to investigate and correct the alleged unlawful activity. The protection described below is only available to employees that comply with this requirement.

The Town of Eden will not retaliate against an employee who in good faith has made a protest or raised a complaint against some practice of the Town of Eden or of another individual or entity with whom the Town of Eden has a business relationship, on the basis of a reasonable belief that the practice is in violation of law or a clear mandate of public policy.

The Town of Eden will not retaliate against employees who disclose or threaten to disclose to the Supervisor or to a Town Board member any activity, policy, or practice of the Town of Eden that the employee reasonable believes is in violation of a law, or a rule, or regulation mandated pursuant to law or is in violation of a clear mandate of public policy concerning the health, safety, welfare, or protection of the environment.

**MOTION** was made by Supervisor Nellis based on the review and recommendation of William Trask, Town Attorney to approve the policy as presented; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Motion carried.

- **Property Disposition Policy**

Supervisor Nellis stated that based on the recommendation of William Trask, Town Attorney, the proposed Property Disposition Policy item will be place on hold at this time.

**5. Modification of required training for Planning/Zoning Board Members**

Supervisor Nellis read correspondence from Mark Agle, Chairman of the Eden Planning Board referencing New York State Law Chapter 662, modification of required training and then read the following resolution:

**RESOLUTION  
MODIFICATION OF TRAINING REQUIREMENTS**

**WHEREAS**, volunteer Planning and Zoning Board members may have extensive experience or professional qualifications as part of their regular work, thus eliminating the necessity for them to take a particular seminar as required by the State of New York; and

**WHEREAS**, the chairperson(s) of the Planning and Zoning Boards will have the discretion to recommend to the Eden Town Board waiver of the state requirements to take a particular seminar for individual board members who by experience or professional qualifications already meet the requirements, based upon prior attendance; and

**WHEREAS**, the waiver of training will be conditioned upon the member providing adequate proof at attendance for each applicable seminar,

**NOW, THEREFORE BE IT RESOLVED** that the Eden Town Board agrees to allow waiver of training requirements for individual members of the volunteer Planning and Zoning Boards based on proof of extensive experience and/or professional qualifications.

**MOTION** was made by Supervisor Nellis to approve the resolution as presented; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**6. Re-appoint to Assessment Board of Review**

Supervisor Nellis read correspondence from Diane Herzog, secretary for Boards and Committees requesting the re-appointment of John Bauer to the Assessment Board of Review for another five-year term, as Chairman.

**MOTION** was made by Councilman McLaughlin to re-appoint John Bauer to the Assessment Board of Review for another five-year term; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**7. Setting of Public Hearing for Community Development Block Grant Program**

**MOTION** was made by Councilman Krycia to set the public hearing for Community Development Block Grant ideas for October 10, 2012 at 8:00 p.m.; seconded by Councilman Ventry; All “Ayes”; Opposed? –None; Abstain? –None; Motion carried.

**8. Awards for “Giant Trees of Eden”**

Lamont Beers and Bob Stievater presented the awards to five (5) adults and five (5) children that participated in the Giant Trees of Eden contest.

**9. Renewal of Liquor License for Four Corners Café – Informational**

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

**MOTION** was made by Councilman McLaughlin to close the Regular Meeting of the Eden Town Board and open the Public Hearing; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis closed the Regular Meeting at 8:15 p.m. and opened the Public Hearing.

**8:15 p.m.  
Public Hearing  
MS-4**

**Stormwater Management Annual Report**

Supervisor Nellis explained that the purpose of the public hearing was to listen to any concerns or questions that citizens have.

Supervisor Nellis stated that this is an annual report that is being submitted for the reporting period ending March 9, 2012, completed by Ron Maggs, the Stormwater Management Supervisor and Dave Johnson, Town Engineer.

The following citizens spoke:

Dawn Bauer

All persons desiring to be heard, having been heard, Supervisor Nellis closed the Public Hearing at 8:20 p.m.

**MOTION** was made by Councilman McLaughlin to close the Public Hearing; seconded by Councilman Kyrchia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**10. Tax Cap Resolution**

**MOTION** was made by Councilman Ventry to set a public hearing for October 10, 2012 at 8:15 p.m. for the purpose of considering the adoption of proposed Local Law No. 2 of 2012 which would authorize the override of the property tax cap established by General Municipal Law Section 3-c for the 2013 fiscal year; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**11. Permissive Referendum – Eden Highway**

Supervisor Nellis read the following legal notice:

RESOLUTION AUTHORIZING SUPERVISOR GLENN R. NELLIS TO EXPEND FUNDS FROM THE GENERAL MAINTENANCE RESERVE FUND OF THE TOWN OF EDEN SUBJECT TO PERMISSIVE REFERENDUM.

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 appropriate a sum not to exceed \$20,000 from the General Maintenance Reserve Fund of the Town of Eden for the purpose of replacing the floor in the Main Highway Building.

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

**MOTION** was made by Councilman McLaughlin to approve the legal notice as presented; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Note:** Supervisor Nellis noted that \$15,000 will be reimbursed by State Grant.

**12. Approval of Eden Dolphins Swim Club Coaches**

Supervisor Nellis read the following appointments to the Eden Dolphins Swim Club Coaches as recommended by The Recreation Board:

Chris Nellis, Head coach pay rate of \$30.00 per hour  
Linda Sherry, Assistant Head coach pay rate of \$22.50 per hour  
Michael O’Connor, Senior Teams Coordinator pay rate of \$20.00 per hour  
William McDonagh, Assistant ST Coordinator pay rate of \$20.00 per hour  
Heather Kinery, Assistant Developmental coach pay rate of \$18.00 per hour  
Jessica Dosser, Assistant coach pay rate of \$10.00 per hour

**MOTION** was made by Councilman McLaughlin to approve the above-mentioned appointments to the Eden Dolphin Swim Club; seconded by Councilman Krycia; “Ayes”; Krycia, Ventry, McLaughlin; Opposed? – None; Abstain? – Nellis; Motion carried.

**13. Submit Preliminary Budget for Fire District – 2013. Set Public Hearing for October 16, 2012**

**MOTION** was made by Supervisor Nellis to set the Public Hearing for the Preliminary Budget for Fire District for October 16, 2012 at 7:00 p.m. in the upstairs conference room; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**14. Set public hearing for Preliminary 2013 Budget**

**MOTION** was made by Councilman Ventry to set the public hearing for the Preliminary 2013 Budget for October 24, 2012 at 8:00 p.m.; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Hearing of Visitors:**

Dawn Bauer

September 12, 2012

**Adjournment:**

**MOTION** was made by Councilman McLaughlin to adjourn the Regular Meeting of the Eden Town Board; seconded by Councilman Ventry; 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 11:00 P.M.

Respectfully submitted by,

Mary Jo Hultquist  
Town Clerk