

April 10, 2013

**MINUTES**

**REGULAR MEETING – EDEN TOWN BOARD  
2795 EAST CHURCH STREET  
EDEN, NEW YORK  
APRIL 10, 2013  
7:30 P.M.**

**TOWN BOARD MEMBERS PRESENT:**

GLENN R. NELLIS	-	SUPERVISOR
MARY LOU PEW	-	COUNCILWOMAN
EDWARD KRYCIA, JR	-	COUNCILMAN
RICHARD S. VENTRY	-	COUNCILMAN
FRAN MCLAUGHLIN	-	COUNCILMAN

**DEPARTMENT HEADS PRESENT:**

Mark Cavacolli	-	Town Engineer
Ronald C. Maggs	-	Superintendent of Highways
Michael J. Felschow	-	Chief of Police
Jack Rigley	-	Eden Fire Chief
Rick Kirst	-	East Eden Fire Department
Robert Pietrocarlo	-	Chairman Board of Assessors
Scott Henry	-	Code Enforcement Officer
Susan Brass	-	Recreation Director
Ray Zabron	-	Dog Control Officer

**OTHERS PRESENT:**

William Trask	-	Town Attorney
Mary Jo Hultquist	-	Town Clerk
Lisa Greiner	-	Administrative Assistant
Stephen Waldvogel	-	CRA Engineering

**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 March 13, 2013; there were none.

**MOTION** was made by Councilman Ventry to approve the Town Board Minutes of March 13, 2013 as presented; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of March 27, 2013; there were none.

**MOTION** was made by Councilman Ventry to approve the Town Board Minutes of March 27, 2013 as presented; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**Petitions:**

There were none.

**Budget Transfers/Amendments:**

There were none.

**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	150-208	\$44,488.08
Highway Dept. Fund	77-114	\$25,483.79
Fire Dept. Fund	54-71	\$16,762.49
Recreation Dept. Fund	24-34	\$2,676.70
Refuse and Garbage Fund	3	\$37,410.00
Street Lights Fund	5-8	\$5,419.28
Water Fund	6-13	\$12,600.21
Trust & Agency Fund	--	--
Capital Fund		
H8320.402	2-3	\$5,255.00
H8320.403	2	\$74.78
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 March 2013 were presented by Jack Rigley, Eden Fire Chief; Rick Kirst 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; Susan Brass, Recreation Director; Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

Rick Kirst, East Eden Fire Department requested adding Gavin Hunter to the active roster of the East Eden Fire Department pending a physical and background check.

**MOTION** was made by Councilwoman Pew to add Gavin Hunter to the active roster of the East Eden Fire Department pending a physical and background check; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Jack Rigley, Eden Fire Chief requested a bid opening for the Itemized Equipment for the Eden Fire Department and the East Eden Fire Department for May 10, 2013 at 3:30 p.m. in the Town Clerk’s office.

**MOTION** was made by Councilwoman Pew to set a bid opening for Friday, May 10, 2013 at 3:30 p.m. in the Town Clerk’s office for the Itemized Equipment for the Eden Fire Department and the East Fire Department; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Ron Maggs, Highway Superintendent requested permission to attend Highway School in Ithaca, New York from June 3-5, 2013.

**MOTION** was made by Councilwoman Pew to grant permission to Ron Maggs, Highway Superintendent to attend Highway School in Ithaca, New York from June 3-5,

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2013; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

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

Supervisor Nellis opened the Public Hearing at 8:00 P.M.

**8:00 p.m.**  
**Public Hearing**  
**Schoolview Drive Waterline**  
**Replacement Project**

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

Mark Cavacoli, Engineer gave a presentation regarding the Schoolview Drive Waterline Replacement Project.

There were no comments.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the public hearing at 8:15 P.M.

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

**New and Unfinished Business:**

**1. Schoolview Drive – SEQR (Environmental Appraisal)**

Supervisor Nellis read the following resolution:

**State Environmental Quality Review (SEQR)**  
**Resolution – Negative Declaration**

**Name of Action: Schoolview Drive Waterline Replacement Project**

**WHEREAS**, the Town of Eden proposes the replacement of approximately 4,265 lineal feet of existing 6-in and 8-inch waterline along Schoolview Drive; and

**WHEREAS**, a map and plan dated March 12, 2013 describing the area affected and the proposed improvements and anticipated project costs has been prepared by Conestoga, Rovers & Associates, competent engineers; and

**WHEREAS**, the Town of Eden Town board (the “Board”) has declared lead agency status with respect to the Project; and

**WHEREAS**, the Board has reviewed the Project and the Town’s application materials, including the Environmental Assessment Form, the various engineering reports and all other materials submitted in connection with this proposed action; and

**WHEREAS**, the Board has taken a “hard look” at all potentially adverse environmental impacts pursuant to SEQR.

**NOW, THEREFORE**, be it resolved by the Board that:

Based upon the Board’s thorough and careful review of the Project and Project application materials, including the Environmental Assessment Form and all other materials submitted in connection therewith, the Board hereby determines that the Project

will not result in any significant environmental impacts and hereby issues a negative declaration for the Project pursuant to SEQRA.

REASONS SUPPORTING THE NEGATIVE DECLARATION:

Air, Water, Noise, Waste, Erosion, Drainage, Site Disturbance Effects: The Project will not create any adverse change in the existing air quality, water quality or noise levels, nor in solid waste production, nor potential for erosion, nor promote flooding or drainage problems. The Project will produce a minimal disturbance of soil and vegetation during construction, with minimal storm run-off.

Aesthetics, Agriculture, Archeology, History, Natural or Cultural Resource, Community or Neighborhood Character: The Project will not adversely affect agricultural, archeological, historical, natural, or cultural resources.

Vegetation, Fish, Wildlife, Significant Habitats, Threatened or Endangered Species: No plant or animal life will be adversely permanently affected by the Project.

Community Plans, Use of Land or Natural Resources: The Project is in keeping with official community plans and goals and will have no adverse effects on land-use of the use of natural resources b or in the community.

Growth, Subsequent Development, etc. The Project is not expected to induce any significant or adverse growth or subsequent development.

Long Term, Short Term, Cumulative, or Other Effects: The Project will not have any significant adverse long term, short term, cumulative, or other environmental effects.

Critical Environmental Area: The Project will not have an impact on any Critical Environmental Area as designated in 6 NYCRR, subdivision 716.14 (g).

Public Health and Safety: The Board finds no adverse impacts on the public health. In fact, the Board recognizes that the Project will improve water quality for residents along Schoolview Drive.

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

William Trask, Town Attorney read the following resolution:

**RESOLUTION AND ORDER  
AFTER PUBLIC HEARING APPROVING  
THE INCREASE AND IMPROVEMENT OF  
FACILITIES OF THE CONSOLIDATED WATER DISTRICT**

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, created the Town of Eden Consolidated Water District (the “District”); and

WHEREAS, the Town Board has directed CRA Infrastructure & Engineering, Inc., competent engineers licensed in New York, to prepare a map, plan and report for a water system capital improvements project within the District; and

WHEREAS, such water system capital improvements project will include, but not be limited to, the construction of approximately 4,265 lineal feet of 8-inch waterline along Schoolview Drive in the Town, the construction of four interconnections, the installation of a flow control valve chamber, and the installation of hydrants, valves and appurtenances, as well as other such improvements as more fully identified in such map, plan and report referred to above, all of the forgoing to include all

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necessary site work, equipment, apparatus and other improvements and costs incidental thereto (collectively, the "District Improvement"); and

WHEREAS, pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such preliminary engineering map, plan and report for such increase and improvement of facilities of the District and has estimated the maximum estimated cost thereof to be \$610,000; such cost to be financed by the issuance of serial bonds of the Town in an aggregate amount not to exceed \$610,000, such bonds to be offset by any federal, state, county and/or local funds received; and

WHEREAS, the Town Board has given due consideration to the impact that the increase and improvement of the facilities of the District may have on the environment and on the basis of such consideration, the Town Board found that no substantial adverse environmental impact will be caused thereby; and

WHEREAS, the Town Board issued an Order at its March 13, 2013 meeting calling for a public hearing to be held at the Town Hall, Eden, New York, on April 10, 2013 at 8:00 o'clock P.M. (prevailing time) to consider said increase and improvement of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and further ordered the Town Clerk to publish at least once in a newspaper designated as an official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten nor more than 20 days before the date of such public hearing; and

WHEREAS, such notices of the public hearing were properly published and posted and the public hearing duly held at the time and place stated in the notices;

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED BY THE TOWN BOARD OF THE TOWN OF EDEN, based on the information provided at the public hearing, as follows:

DETERMINED, that it is in the public interest to increase and improve the facilities of the District as hereinabove described and referred to at the estimated maximum cost of \$610,000; and it is hereby

DETERMINED, that the parcels and lots of the District shall be benefited by said increase and improvement of the facilities of the District; and it is hereby

DETERMINED, that all parcels and lots benefited by said increase and improvement of the facilities are included in the District; and it is hereby

ORDERED, that the facilities of the District shall be so increased and improved and that the Engineer shall prepare plans and specifications and make a careful estimate of the expense for said increase and improvement of the facilities, and with the assistance of the Town Attorney, prepare a proposed contract for the execution of the work, which plans and specifications, estimate and proposed contract shall be presented to the Town Board as soon as possible; and it is hereby

FURTHER ORDERED, that the expense of said increase and improvement of the facilities shall be financed by the issuance of serial bonds of the Town in an aggregate amount not to exceed \$610,000, said amount to be offset by any federal, state, county and/or local funds received, and unless paid from other sources or charges, the costs of said increase and improvement of facilities shall be paid by the assessment, levy and collection from the several lots and parcels of land within the District for such purpose in the same manner and at the same time as other Town charges to pay the principal of and interest on said bonds as the same shall become due and payable, except as otherwise provided by law; and it is hereby

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FURTHER ORDERED, that within ten days after adoption of this Resolution and Order, the Town Clerk shall record with the Clerk of the County of Erie a copy of this Resolution and Order, certified by said Town Clerk.

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

Councilwoman Pew and Attorney Trask read the following resolution:

A BOND RESOLUTION, DATED APRIL 10, 2013, OF THE TOWN BOARD OF THE TOWN OF EDEN, ERIE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT WITHIN THE TOWN OF EDEN CONSOLIDATED WATER DISTRICT AT AN ESTIMATED MAXIMUM COST OF \$610,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$610,000 OF THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Eden, Erie County, New York (the "Town"), has determined to proceed with a certain capital improvements project in the Consolidated Water District within the Town (the "District"); and

WHEREAS, the Town Board has determined by resolution to undertake the construction of a water system capital improvements project within the District, (the "Project"); and

WHEREAS, the Town Board has determined to proceed with the Project; and

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of the Project.

NOW THEREFORE,

BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is a certain capital improvements project, including, but not limited to, the construction of approximately 4,265 lineal feet of 8-inch waterline along Schoolview Drive in the Town, the construction of four interconnections, the installation of a flow control valve chamber, and the installation of hydrants, valves and appurtenances, as well as other such improvements as more fully identified in such map, plan and report prepared in connection with such project, all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto. The estimated maximum cost of said purpose is \$610,000.

SECTION 2. The Town Board plans to finance the estimated maximum cost of said purpose by the issuance of serial bonds in an aggregate amount not to exceed \$610,000 of the Town, hereby authorized to be issued therefore pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received. Unless paid by other sources or charges, the costs of said increase and

improvement of facilities shall be paid by the assessment, levy and collection from the several lots and parcels of land within the District for such purpose in the same manner and at the same time as other Town charges to pay the principal of and interest on said bonds as the same shall become due and payable, except as otherwise provided by law.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, the cost of such improvements shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District for such purpose in the same manner and at the same time as other Town charges to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town. Without in any way limiting the scope of the foregoing delegation of powers, the Town Supervisor, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the Town.

SECTION 8. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this

resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act (“SEQRA”), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

SECTION 12. The Town Supervisor is hereby authorized to execute and deliver in the name and on behalf of the Town a project financing agreement prepared by the New York State Environmental Facilities Corporation (“EFC”) (the “SRF Project Financing Agreement”). The Town Supervisor and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the SRF Project Financing Agreement.

SECTION 13. In the absence or unavailability of the Town Supervisor, the Deputy Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

SECTION 14. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

- (1) (a) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
  - (b) if the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or
- (2) Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 15. This Resolution is effective immediately

SECTION 16. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said Town and designated as the official newspaper of said Town for such publication.

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

## **2. Back-up Generator for Pump Station #1**

Supervisor Nellis stated that this was informational in nature and Ron Maggs, Highway Superintendent stated that the generator for the Town Hall would be installed soon.

## **3. Setting of public hearing for Carl & Diane Feasley – Violet Parkway**

Supervisor Nellis introduced Mr. Carl Feasley, who presented a survey to the Town Board regarding the section of Violet Parkway that is to be abandoned.

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Attorney Trask explained the process, of which the first part is to schedule a Public Hearing.

**MOTION** was made Supervisor Nellis to schedule a Public Hearing for May 8, 2013 at 8:00 p.m. at the East Eden Fire Hall to consider the abandonment of the paper road on Violet Parkway; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**4. Sue Johnson – representative for Senator Gallivan**

Supervisor Nellis introduced Sue Johnson, representative for Senator Patrick Gallivan, District No. 59, of which Eden is a new district for the Senator to cover.

**Supervisors Report:**

- Vacancies exist on the following committees: The Eden Conservation Board, The Technology Committee and the Code Review Committee. Any interested persons should contact the Supervisor’s office.
- Scrap Metal and Tire Drop-off will be held on Saturday, April 13, 2013 from 9:00 a.m. until 1:00 p.m.
- A burning ban is in effect until May 15<sup>th</sup>.
- HEAP applications are available in the Supervisor’s office for air conditioning and cooling from April 1 through August 30<sup>th</sup>.

**Hearing of Visitors:**

There were none.

**Adjournment:**

**MOTION** was made by Councilwoman Pew to adjourn the Regular Meeting of the Eden Town Board; seconded by Councilman McLaughlin; 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