

April 13, 2016

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
APRIL 13, 2016
7:30 P.M.**

TOWN BOARD MEMBERS PRESENT:

MELISSA HARTMAN	-	SUPERVISOR
RICHARD S. VENTRY	-	COUNCILMAN
MARY LOU PEW	-	COUNCILWOMAN
SUSAN WILHELM	-	COUNCILWOMAN
MICHAEL BYRNES	-	COUNCILMAN

DEPARTMENT HEADS PRESENT:

Michael Quinn	-	Town Engineer
Ronald C. Maggs	-	Superintendent of Highways
Michael J. Felschow	-	Chief of Police
Matthew Colvin	-	Eden Fire Chief
Scott Hunter	-	East Eden Fire Chief
Robert Pietrocarlo	-	Chairman Board of Assessors
Ray Zabron	-	Dog Control Officer

OTHERS PRESENT:

William Trask	-	Town Attorney
Mary Jo Hultquist	-	Town Clerk
Lisa Winter	-	Bookkeeper
Debra Gregoire	-	Administrative Assistant

Call to Order:

Supervisor Hartman called the Regular Meeting of the Eden Town Board to order at 7:30 P.M.

Pledge of Allegiance:

Supervisor Hartman led the assembly in the Pledge of Allegiance to the flag. A moment of silence was observed for the deceased members of the community for the month of March, 2016.

Approval of Minutes:

Supervisor Hartman asked if there were any additions or corrections to the Town Board Minutes of March 9, 2016; there were none.

MOTION was made by Councilwoman Wilhelm to approve the Town Board Minutes of March 9, 2016 as presented; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Hartman asked if there were any additions or corrections to the Town Board Minutes of March 23, 2016; there were none.

MOTION was made by Councilwoman Pew to approve the Town Board Minutes of March 23, 2016 as presented; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

There were none.

Budget Transfers/Amendments:

Supervisor Hartman read the following Budget Transfers/Amendments:

From Account	To Account	Reason for Amendment	Amount
A1220.1 Supervisor-Personal	A1220.4 Supervisor-Contractual	Budget adjustment for training and computer	\$2,100.00
A1990.4 Contingent Fund	A1010.4 Town Board Contractual	New York Training	\$500.00
A6772.4 Programs for Aging	A6510.4 Veterans Services	Reallocation of Stipends	\$500.00
A6772.4 Programs for Aging	A7520.4 Historic Preservation	Reallocation of Stipends	\$500.00
A878.4 Programs for Aging	A7110.2 Recreation Equipment	Use of equipment reserve for Recreation Truck per permissive referendum	\$18,779.00

MOTION was made by Councilman Ventry to approve the Budget Transfers/Amendments as presented; seconded by Councilwoman Wilhelm; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Audit Bills:

Supervisor Hartman 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	170-247	\$91,249.86
Highway Dept. Fund	61-101	\$44,520.29
Fire Dept. Fund	46-77	\$10,537.28
Recreation Dept. Fund	23-40	\$4,659.60
Refuse and Garbage Fund	4-6	\$38,883.09
Street Lights Fund	5-8	\$4,979.51
Water Fund	7-9	\$14,047.54
Trust & Agency Fund	--	--
Capital Fund H8320.405	2-4	\$49,917.19
Community Development	--	--

MOTION was made by Supervisor Hartman 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 2016 were presented by Supervisor Hartman for Scott Hultquist, Director of Operation, Eden EMS, Matthew Colvin, Eden Fire Chief; Scott Hunter, 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; Supervisor Hartman for Mark Clark, Zoning Code Enforcement Officer; Councilwoman Pew for Susan Brass, Recreation Director; and Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk's office.

Matthew Colvin, Eden Fire Chief requested permission for Eden and East Eden Fire Department to advertise the Request for Proposals for Itemized Fire Equipment with the bid opening date of Friday, April 29, 2016 at 3:30 p.m.

MOTION was made by Councilwoman Pew to set the bid opening date for April 29, 2016 at 3:30 p.m. in the Town Clerk Office for the Request for Proposals for Itemized Fire Equipment for Eden and East Eden Fire Department; seconded by Councilwoman Wilhelm; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Scott Hunter, East Eden Fire Chief requesting permission to seek out service contract quotes for air handling (heating/cooling) units at the fire hall. Included with this report is information from Danforth outlining the importance of regular maintenance.

MOTION was made by Councilwoman Pew to give permission to Scott Hunter, East Eden Fire Chief to seek out service contract quotes for air handling (heating/cooling) units at the fire hall; seconded by Councilman Byrnes; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

Michael Felschow, Chief of Police publicly thanked Bill Sickau, Sargent for the Eden Reserve Police for assisting with a recent arrest in the Town of Eden.

Mary Jo Hultquist, Town Clerk, requested permission to attend the annual NYS Town Clerk's Conference in Saratoga Springs, NY from April 17-20, 2016.

MOTION was made by Councilwoman Pew to grant permission to Mary Jo Hultquist, Town Clerk to attend the NYS Town Clerk's Conference in Saratoga Springs, NY from April 17-20, 2016; seconded by Supervisor Hartman; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

New and Unfinished Business:

1. Approval of Off-Road Project 2016-1, various ditch clearing

Ron Maggs, as Chairperson of the Off-Road Drainage committee recommended that the Town Board approve the following project:

Project 2016-01: Miscellaneous Hand Clearing in various off-road ditches at a cost not to exceed \$1,500.00.

MOTION was made by Councilwoman Pew to approve Project 2016-01: Miscellaneous Hand Clearing in various off-road ditches at a cost not to exceed \$1,500.00; seconded by Councilman Byrnes; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

2. Request the Town Board to approve the purchase of Pick-up Truck for Highway Department

Ron Maggs, Highway Superintendent requested approval of the purchase of a 2016 Chevrolet Pick-Up Truck from Cappellino Chevrolet, piggybacked off Chautauqua County bid E-11-14 PFTH at a cost of \$29,851.68. The 30-day Permissive Referendum period expired on April 9, 2016 with no inquiries.

MOTION was made by Councilman Ventry to approve the purchase of a 2016 Chevrolet Pick-Up Truck from Cappellino Chevrolet at a cost of \$29,851.68; seconded by Councilwoman Wilhelm; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

3. Approval for Ron Maggs, Highway Superintendent to attend Highway School

Ron Maggs, Highway Superintendent, requested permission to attend Highway School in Ithaca, NY on June 5-8, 2016.

MOTION was made by Councilwoman Pew to grant permission to Ron Maggs, Highway Superintendent to attend Highway School in Ithaca, NY on June 5-8, 2016; seconded by Councilwoman Wilhelm; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

4. Approval of Shared Services Contract

Ron Maggs, Highway Superintendent requested approval of the Shared Services Contract between the NYSDOT and the Town of Eden. This Agreement between the State and Municipality wishes to share services, exchange or lend materials or equipment which shall promote and assist the maintenance of State and Municipal roads and highways and provide a cost savings by maximizing the effective utilization of both parties' resources. Shared Services shall mean any service provided by one party (Provider) to another party (Recipient).

This is a 4-year Agreement.

Ron Miller, Evans Agency has been contacted and the endorsements and liability to cover the town are at a cost of \$50.00.

This Agreement will be signed by Melissa Hartman, Supervisor and Ron Maggs, Highway Superintendent.

The entire Agreement is on file in the Town Clerk's office and available during normal business hours.

MOTION was made by Councilman Ventry to approve the Shared Services Contract between NYSDOT and the Town of Eden and to authorize Melissa Hartman, Supervisor and Ron Maggs, Highway Superintendent to sign the Agreement; seconded by Councilman Byrnes; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

MOTION was made by Councilman Ventry to close the Regular Meeting on the Eden Town Board and to open the Public Hearing for the purpose of the Consolidated Water District; seconded by Supervisor Hartman; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

Supervisor Hartman closed the Regular Meeting of the Eden Town Board at 8:00 p.m.

**8:00 P.M.
Public Hearing
Consolidated Water District**

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

Supervisor Hartman stated that there would be a 2-minute time limit to speak.

The following comments were made:

There were none.

All persons desiring to be heard, having been heard, Supervisor Hartman closed the Public Hearing at 8:02 p.m.

April 13, 2016

MOTION was made by Supervisor Hartman to close the Public Hearing and return to the Regular Meeting of the Eden Town Board; seconded by Councilwoman Wilhelm; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Supervisor Hartman 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 GHD, competent engineers licensed in New York, to prepare a preliminary map, plan and report for a water system capital improvements project within the District; and

WHEREAS, such water system capital improvements project will generally consist of improvements to the various pump stations in the Town including, but not limited to, pump building improvements, installation of new equipment, installation of LED lighting, roof replacement and installation of new asphalt driveway, as well as various water tank improvements including, but not limited to, the replacement of various valves, access ladders, railings, access hatches, valve pit enclosures, electric service and meter sockets, 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 necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (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 map, plan and report for such increase and improvement of facilities of the District and has estimated the total cost thereof to be an estimated maximum amount of \$853,500; such cost to be financed by the issuance of serial bonds of the Town in an aggregate amount not to exceed \$853,500, such bonds to be offset by any federal, state, county and/or local funds received;

WHEREAS, the Town has determined that the District Improvement is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act (“SEQRA”) is required; and

WHEREAS, the Town Board issued an Order at its March 23, 2016 meeting calling for a public hearing to be held at the Town Hall, Eden, New York, on April 13, 2016 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:

April 13, 2016

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 \$853,500; 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 \$853,500, 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

FURTHER ORDERED, that within ten days after adoption of this Resolution and Order, the Town Clerk will 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 Councilman Ventry to approve the resolution as presented; seconded by Councilwoman Pew; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

Supervisor Hartman read the following resolution:

A BOND RESOLUTION, DATED APRIL 13, 2016, OF THE TOWN BOARD OF THE TOWN OF EDEN, ERIE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT (2016) WITHIN THE TOWN OF EDEN CONSOLIDATED WATER DISTRICT AT AN ESTIMATED MAXIMUM COST OF \$853,500, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$853,500 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 certain water system capital improvements project within the District, such improvements will generally consist of improvements to the various pump

stations in the Town including, but not limited to, pump building improvements, installation of new equipment, installation of LED lighting, roof replacement and installation of new asphalt driveway, as well as various water tank improvements including, but not limited to, the replacement of various valves, access ladders, railings, access hatches, valve pit enclosures, electric service and meter sockets, 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 and in connection with the financing thereof (collectively, 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 purpose to be financed pursuant to this resolution is a certain water system capital improvements project, generally consisting of improvements to the various pump stations in the Town including, but not limited to, pump building improvements, installation of new equipment, installation of LED lighting, roof replacement and installation of new asphalt driveway, as well as various water tank improvements including, but not limited to, the replacement of various valves, access ladders, railings, access hatches, valve pit enclosures, electric service and meter sockets, 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 and in connection with the financing thereof (collectively, the "Purpose"). The estimated maximum cost of the Purpose is \$853,500.

SECTION 2. The Town Board plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an aggregate amount not to exceed \$853,500 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 the 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. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all taxable real property of the Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

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 may 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) 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 hereby determines that the Purpose is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQRA") is required.

SECTION 12. In the absence or unavailability of the Town Supervisor, the Deputy Town Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

SECTION 13. 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) the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with

and an action, suit or proceeding contesting such validity is commenced within 20 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 14. 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.

SECTION 15. This Resolution is effective immediately.

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

5. Resolution – SEC-Driven Continuing Disclosure Compliance Procedures

Supervisor Hartman read the following resolution:

**RESOLUTION, DATED APRIL 13, 2016, OF THE
TOWN BOARD OF THE TOWN OF EDEN, ERIE
COUNTY, NEW YORK (THE "TOWN") ADOPTING
SEC-DRIVEN CONTINUING DISCLOSURE
COMPLIANCE PROCEDURES**

WHEREAS, Securities Exchange Commission ("SEC") Rule 15c2-12 (the "Rule") generally prohibits underwriters from purchasing or selling municipal securities unless the issuer of such securities has entered into a continuing disclosure obligation; and

WHEREAS, the Town is an occasional issuer of municipal securities and thus has entered into continuing disclosure obligations (or will do so) from time to time; and

WHEREAS, Hodgson Russ LLP, as bond counsel to the Town, has prepared and has recommended that the Town adopt certain SEC-driven continuing disclosure compliance procedures; and

WHEREAS, the Town Board deems it to be in the best interest of the Town to adopt formal written procedures to help ensure continuing disclosure compliance, and to designate an official responsible for ensuring that such procedures are followed;

NOW THEREFORE, BE IT RESOLVED, that the Town hereby adopts the continuing disclosure compliance procedures that are attached hereto as "Schedule A" and resolves to be governed thereby; and be it further

RESOLVED, that such Schedule A will be placed in its entirety in the official records, files and minutes of the Town and adhered to going forward; and be it further

RESOLVED, that this resolution shall take effect immediately upon its adoption.

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

April 13, 2016

Supervisor Hartman read the following resolution:

**RESOLUTION, DATED APRIL 13, 2016, OF THE
TOWN BOARD OF THE TOWN OF EDEN, ERIE
COUNTY, NEW YORK (THE "TOWN") ADOPTING
POST-ISSUANCE TAX COMPLIANCE
PROCEDURES**

WHEREAS, the Internal Revenue Service has issued regulations requiring issuers of tax-exempt obligations to certify on various forms that they actively monitor compliance with federal tax rules following the issuance of such obligations; and

WHEREAS, the Town is an occasional issuer of tax-exempt obligations and thus is subject to the aforementioned compliance requirements which are critical for the preservation of the preferential tax status of those obligations; and

WHEREAS, it is therefore in the best interest of the Town to adopt formal written procedures to ensure such compliance and to designate an official responsible for ensuring that such procedures are followed; and

WHEREAS, the Town previously adopted interim post-issuance tax compliance procedures (the "Original Procedures"); and

WHEREAS, it was intended that the Original Procedures would be periodically updated and supplemented; and

WHEREAS, Hodgson Russ LLP, as bond counsel to the Town, has prepared and has recommended that the Town adopt updated and more comprehensive post-issuance tax compliance procedures;

NOW THEREFORE, BE IT RESOLVED, that the Town hereby adopts the updated and more comprehensive post-issuance tax compliance procedures that are attached hereto as "Schedule A" and resolves to be governed thereby; and be it further

RESOLVED, that such Schedule A will be placed in its entirety in the official records, files and minutes of the Town and adhered to going forward; and be it further

RESOLVED, that this resolution shall take effect immediately upon its adoption.

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

Schedule A

**TOWN OF EDEN,
ERIE COUNTY, NEW YORK**

**Post-Issuance Tax Compliance Procedures
for Tax-Exempt Bonds and Notes**

Statement of Purpose

These Post-Issuance Tax Compliance Procedures (the "Procedures") set forth specific procedures of the **Town of Eden, Erie County, New York** (the "Issuer") designed to monitor, and ensure compliance with, certain requirements of the Internal Revenue Code of 1986, as amended (the "Code") and the related Treasury regulations, promulgated thereunder, post-issuance tax compliance with the Internal Revenue Service ("IRS") in connection with the Issuer's issuance of tax-exempt bonds and notes ("Obligations").

These Procedures describe various systems designed to identify on a timely basis facts relevant to demonstrating compliance with the requirements that must be satisfied subsequent to the issuance of Obligations to ensure that the interest on such Obligations is eligible for exclusion from gross income for federal income tax purposes. The federal tax law requirements applicable to the Obligations will be described in the tax questionnaire and/or tax certificate prepared by bond counsel and signed by officials of the Issuer. These Procedures establish a permanent, ongoing structure of practices that will facilitate compliance with the requirements for individual borrowings.

To ensure compliance with applicable federal tax requirements, the Issuer must monitor the various direct and indirect uses of proceeds of the obligation and the investment of such proceeds, including but not limited to:

- (1) Monitoring the use of financed property over the life of the obligation.
- (2) Determining the sources of debt service payments and security for the obligation.
- (3) Calculating the percentage of any nonqualified use of the financed property.
- (4) Calculating the yield on investments of proceeds.
- (5) Determining appropriate restrictions on investments.
- (6) Determining the amount of any arbitrage on the investments.
- (7) Calculating any arbitrage rebate payments that must be paid to the U.S. Treasury.

The Issuer recognizes that compliance with the pertinent law is an on-going process, necessary during the entire term of the Obligations. Accordingly, the implementation of the Procedures will require on-going monitoring and consultation with bond counsel and the Issuer's accountants and advisors.

General Procedures

The following procedures relate to monitoring post-issuance tax compliance generally.

- A. The **Town Supervisor (currently, Melissa Hartman)** (the "Compliance Officer") shall be responsible for monitoring post-issuance tax compliance issues.
- B. The Compliance Officer will coordinate procedures for record retention and review of such records.
- C. All documents and other records relating to Obligations must be maintained by or at the direction of the Compliance Officer. In maintaining such documents and records, the Compliance Officer will comply with applicable IRS requirements, such as those contained in Revenue Procedure 97-22 (see attached).
- D. The Compliance Officer shall be aware of remedial actions under Section 1.141-12 of the Treasury Regulations (see attached) and the Treasury's Tax-Exempt Bonds Voluntary Closing Agreement Program (VCAP) and take such corrective action when necessary and appropriate.
- E. The Compliance Officer will review post-issuance tax compliance procedures and systems on a periodic basis, but not less than annually.
- F. The Compliance Officer will be responsible for training any designated officer or employee who is delegated any responsibility for monitoring compliance pursuant to this procedure. To the extent the Compliance Officer needs training or has any questions with respect to any item in this procedure, he or she should contact bond counsel and/or Issuer's accountants and advisors. The IRS recognizes that the Compliance Officer and any delegated individual are not expected to act as lawyers

who know the proper response to all compliance situations that may arise, but they should be familiar enough with federal tax issues that they know when to ask for legal or other compliance advice.

Issuance of Obligations: Documents and Records

With respect to each issue of Obligations, the Compliance Officer will:

- A. Obtain and store a closing binder and/or CD or other electronic copy of the relevant and customary transaction documents (the "Transcript").
- B. Confirm that the applicable information reports (e.g., Form 8038 series) for such issue are filed timely with the IRS. The Issuer should consult with its accountants and/or bond counsel with questions regarding the filing of such forms.
- C. Coordinate receipt and retention of relevant books and records with respect to the investment and expenditure of the proceeds of such Obligations.

Arbitrage

The following procedures relate to the monitoring and calculating of arbitrage and compliance with specific arbitrage rules and regulations.

The Compliance Officer will:

- A. Confirm that a certification of the initial offering prices of the Obligations with such supporting data, if any, required by bond counsel, is included in the Transcript.
- B. Confirm that a computation of the yield on such issue from the Issuer's financial advisor or bond counsel (or an outside arbitrage rebate specialist) is contained in the Transcript.
- C. Maintain a system for tracking investment earnings on the proceeds of the Obligations.
- D. Coordinate the tracking of expenditures, including the expenditure of any investment earnings. If the project(s) to be financed with the proceeds of the Obligations will be funded with multiple sources of funds, confirm that the Issuer has adopted an accounting methodology that maintains each source of financing separately and monitors the actual expenditure of proceeds of the Obligations.
- E. Maintain a procedure for the allocation of proceeds of the issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures. This procedure shall include an examination of the expenditures made with proceeds of the Obligations within 18 months after each project financed by the Obligations is placed in service and, if necessary, a reallocation of expenditures in accordance with Section 1.148-6(d) of the Treasury Regulations (see attached).
- F. Monitor compliance with the applicable "temporary period" (as defined in the Code and Treasury Regulations) exceptions for the expenditure of proceeds of the issue, and provide for yield restriction on the investment of such proceeds if such exceptions are not satisfied.
- G. Ensure that investments acquired with proceeds of such issue are purchased at fair market value. In determining whether an investment is purchased at fair market value, any applicable Treasury Regulation safe harbor may be used.

- H. Avoid formal or informal creation of funds reasonably expected to be used to pay debt service on such issue without determining in advance whether such funds must be invested at a restricted yield.
- I. Consult with bond counsel prior to engaging in any post-issuance credit enhancement transactions or investments in guaranteed investment contracts.
- J. Identify situations in which compliance with applicable yield restrictions depends upon later investments and monitor implementation of any such restrictions.
- K. Monitor compliance with six-month, 18-month or 2-year spending exceptions to the rebate requirement, as applicable.
- L. Procure a timely computation of any rebate liability and, if rebate is due, to file a Form 8038-T and to arrange for payment of such rebate liability.
- M. Arrange for timely computation and payment of "yield reduction payments" (as such term is defined in the Code and Treasury Regulations), if applicable.

Private Activity: Use of Proceeds

The following procedures relate to the monitoring and tracking of private uses and private payments with respect to facilities financed with the Obligations.

The Compliance Officer will:

- A. Maintain records for determining and tracking facilities financed with specific Obligations and the amount of proceeds spent on each facility.
- B. Maintain records, which should be consistent with those used for arbitrage purposes, to allocate the proceeds of an issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures.
- C. Maintain records allocating to a project financed with Obligations any funds from other sources that will be used for otherwise non-qualifying costs.
- D. Monitor the expenditure of proceeds of an issue and investment earnings for qualifying costs.
- E. Monitor private use of financed facilities to ensure compliance with applicable limitations on such use. Examples of potential private use include:
 - 1. Sale of the facilities, including sale of capacity rights;
 - 2. Lease or sub-lease of the facilities (including leases, easements or use arrangements for areas outside the four walls, e.g., hosting of cell phone towers) or leasehold improvement contracts;
 - 3. Management contracts (in which the Issuer authorizes a third party to operate a facility, e.g., cafeteria) and research contracts;
 - 4. Preference arrangements (in which the Issuer permits a third party preference, such as parking in a public parking lot);
 - 5. Joint-ventures, limited liability companies or partnership arrangements;
 - 6. Output contracts or other contracts for use of utility facilities (including contracts with large utility users);

7. Development agreements which provide for guaranteed payments or property values from a developer;
8. Grants or loans made to private entities, including special assessment agreements; and
9. Naming rights arrangements.

Monitoring of private use should include the following:

1. Procedures to review the amount of existing private use on a periodic basis but not less than annually; and
2. Procedures for identifying in advance any new sale, lease or license, management contract, sponsored research arrangement, output or utility contract, development agreement or other arrangement involving private use of financed facilities and for obtaining copies of any sale agreement, lease, license, management contract, research arrangement or other arrangement for review by bond counsel.

If the Compliance Officer identifies private use of facilities financed with tax-exempt debt, the Compliance Officer will consult with bond counsel to determine whether private use will adversely affect the tax status of the issue and if so, what remedial action is appropriate. The Compliance Officer should retain all documents related to any of the above potential private uses.

Reissuance

The following procedures relate to compliance with rules and regulations regarding the reissuance of Obligations for federal law purposes.

The Compliance Officer will identify and consult with bond counsel regarding any post-issuance change to any terms of an issue of Obligations which could potentially be treated as a reissuance for federal tax purposes.

Record Retention

The following procedures relate to retention of records relating to the Obligations issued.

The Compliance Officer will:

- A. Coordinate with staff regarding the records to be maintained by the Issuer to establish and ensure that an issue remains in compliance with applicable federal tax requirements for the life of such issue.
- B. Coordinate with staff to comply with provisions imposing specific recordkeeping requirements and cause compliance with such provisions, where applicable.
- C. Coordinate with staff to generally maintain the following:
 1. The Transcript relating to the transaction (including any arbitrage or other tax questionnaire, tax regulatory agreement, and the bond counsel opinion);
 2. Documentation evidencing expenditure of proceeds of the issue;
 3. Documentation regarding the types of facilities financed with the proceeds of an issue, including, but not limited to, whether such facilities are land, buildings or equipment, economic life calculations and information regarding depreciation;
 4. Documentation evidencing use of financed property by public and private entities (e.g., copies of leases, management contracts,

utility user agreements, developer agreements and research agreements);

5. Documentation evidencing all sources of payment or security for the issue; and
 6. Documentation pertaining to any investment of proceeds of the issue (including the purchase and sale of securities, yield calculations for each class of investments, actual investment income received by the investment of proceeds, guaranteed investment contracts, and rebate calculations).
- D. Coordinate the retention of all records in a manner that ensures their complete access to the IRS.
 - E. Keep all material records for so long as the issue is outstanding (including any refunding), plus seven years.

6. Set Public Hearing for Kelly's Place Special Use Permit – Multi-Dwelling Development at 8121 North Main Street – May 25, 2016 at 8:00 p.m.

MOTION was made by Councilman Ventry to set a Public Hearing for Kelly's Place, Special Use Permit,-Multi-Dwelling Development at 8121 North Main Street for May 25, 2016 at 8:00 p.m. A Zoning Referral will be sent to Erie County Department of Environment and Planning; seconded by Councilman Byrnes; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

7. Approval of Eric Clark as a volunteer for the town

MOTION was made by Supervisor Hartman to approve Eric Clark as a volunteer for the Town of Eden Building Department; seconded by Councilman Byrnes; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

8. Appointment of Debra Gregoire to the full-time position of Secretary to the Supervisor

MOTION was made by Councilman Ventry to appoint Debra Gregoire to the full-time position of Administrative Assistant and Confidential Secretary to the Supervisor at a rate of pay of \$35,100.00 effective April 11, 2016; seconded by Councilwoman Wilhelm; All “Ayes”; Opposed? - None; Abstain? -None; Motion carried.

9. Awarding of the bid for Eden Fire Hall Project

Supervisor Hartman read the following bid results:

Bidder	Total Amount of Bid
Action Roofing, Inc.	\$131,800.00
Weaver Metal & Roofing Inc.	\$140,900.00
Murray Roofing Co., Inc.	\$170,802.00
Jos. A. Sanders & Sons, Inc.	\$185,708.00
Jameson Roofing Co., Inc.	\$189,800.00

GHD Consulting Services, Inc. has reviewed the bid proposal received from the low bidder for the above-referenced project, Action Roofing, Inc., and have found they have performed similar work acceptably. They, therefore, recommend award of the Eden Fire Hall Roof Project to Action Roofing, Inc. in the Total Bid amount of \$131,800.00 contingent upon the availability of project funding and review by the Town Attorney.

MOTION was made by Councilman Ventry to award the Fire Hall Roof Project to Action Roofing, Inc. at a total bid amount of \$131,800.00 based on the recommendation of GHD Consulting Services, Inc.; seconded by Councilwoman Pew; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

10. Presentation from Drescher & Malecki

Luke Malecki and Erica Handley gave a presentation describing the process of the Town of Eden audit ending December 31, 2015. Copies of the financial statements are available in the Town Clerk’s office during normal business hours.

11. Code Review Committee

MOTION was made by Supervisor Hartman to appoint Kristin Kent, Bob Stickney and Phil Muck to the Code Review Committee, with no term limits, the committee will serve at the pleasure of the Town; seconded by Councilman Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

12. Approve Health Insurance

MOTION was made by Councilman Ventry to approve the Health Insurance Plan – Independent Health: Direct Silver Copay HSAQ with thanks to all departments involved for their assistance; seconded by Supervisor Hartman; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

13. Proposed Local Law #1-2016 – Moratorium on Solar Panels

Supervisor Hartman read the following resolution:

**RESOLUTION
DECLARING LEAD AGENCY STATUS AND
CALLING FOR PUBLIC HEARING ON
PROPOSED LOCAL LAW #1-2016**

WHEREAS, the Town of Eden Town Board is considering the adoption of Proposed Local Law #1-2016, which would impose a 6-month moratorium on the issuance of applications and permits for the siting of Commercial Solar Power Projects in the Town of Eden in order to allow for the adoption of appropriate regulations pertaining to such land uses, and

NOW, THEREFORE BE IT RESOLVED that the Town Board declares itself Lead Agency for review of this action, and

BE IT FURTHER RESOLVED, that a public hearing on the adoption of Proposed Local Law #1-2016 be held on May 11, 2016 at 8:00 p.m.

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

Supervisor’s Report:

- Town of Eden received an A1 credit rating, this was the first time the Town of Eden has received a credit rating.
- Thanks to Glenn Nellis for getting the surveys in the Green/Depot Street area that was necessary to obtain information needed to apply for the Block Grant in the fall.
- UNYTS Blood Drive will be held at the Town Hall on Wednesday, April 20, 2016 from 10:00 a.m. - 2:00 p.m.
- Clinton/Brown Architects will give a presentation at the April 29, 2016 Work Session meeting of the Town Board.

April 13, 2016

- Annual Hot Dog Roast, hosted by John Mills, Legislator will be held on July 13, 2016 at the Eden Library.

Hearing of Visitors:

Tom Lewis – representing the ACES senior group inquired about the status of the senior housing. Supervisor Hartman stated that a public hearing had been set tonight for May 25, 2016 at 8:00 p.m. Also, any future announcements regarding the senior housing would be referred to as “Kelly's Place”.

Phil Muck – questioned Item #7 on the Agenda, Approval of Eric Clark as a volunteer for the town. Mr. Muck asked what the duties were and in which department he would be volunteering? Supervisor Hartman stated that he was volunteering and would be doing an inventory of folders.

Adjournment:

MOTION was made by Councilwoman Pew to adjourn the Regular Meeting of the Eden Town Board; seconded by Councilman Byrnes; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Hartman adjourned the Regular Meeting of the Eden Town Board at 9:00 P.M.

Executive Session:

Supervisor Hartman adjourned the Executive Session of the Eden Town Board Meeting at 11:05 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk