

November 9, 2016

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
NOVEMBER 9, 2016
7:30 P.M.**

TOWN BOARD MEMBERS PRESENT:

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

DEPARTMENT HEADS PRESENT:

Stephen Waldvogel	-	Town Engineer
Ronald C. Maggs	-	Superintendent of Highways
Michael J. Felschow	-	Chief of Police
Scott Hultquist	-	Director of Operations - EMS
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
Debbie Gregoire	-	Administrative Assistant
Lisa Winter	-	Bookkeeper

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 October, 2016.

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

**7:30 pm
Public Hearing
Possible Override of Tax Levy**

Supervisor Hartman stated that adjustments had been made to the budget, that it would be under the 2%.

The following persons made comments:

Charles Piersa, Eckhardt Road, asked why the town had to override the tax levy.

Supervisor Hartman stated that the town had been using the fund balance and it had reached the lowest level. Supervisor Hartman stated that there are low sick reserves/retirement and the town is ending their contract for refuse and in 2017 will be purchasing totes, which will cut down on recycling to every other week. The town wants to take measures ahead of time to not be in the same situation in the future

All person desiring to be heard, having been heard, Supervisor Hartman closed the Public Hearing at 7:35 pm.

MOTION was made by Councilperson Ventry to close the Public Hearing at 7:35 pm and return to the Regular Meeting on the Town Board; seconded by Councilperson Pew; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Approval of Minutes:

Supervisor Hartman asked if there were any additions or corrections to the Town Board Minutes of October 12, 2016; there were none.

MOTION was made by Councilperson Ventry to approve the Town Board Minutes of October 12, 2016 as presented; seconded by Councilperson Byrnes; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Hartman asked if there were any additions or corrections to the Town Board Minutes of October 18, 2016; there were none.

MOTION was made by Supervisor Hartman to approve the Town Board Minutes of October 18, 2016 as presented; seconded by Councilperson Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Hartman asked if there were any additions or corrections to the Town Board Minutes of October 26, 2016; there were none.

MOTION was made by Councilperson Ventry to approve the Town Board Minutes of October 26, 2016 as presented; seconded by Councilperson Byrnes; 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
A1990.4 Contingent Fund	A9040.8 Worker's Comp	Change in allocation of Worker's Comp between General & Highway	\$2,466.00
A878.1 Reserve-Ambulance	A4540.2 Ambulance-Equipment	Payment for new ambulance as per permissive referendum	\$159,720.00
D5120.2 Bridges-Construction	D5130.4 Contractual Expenses	Budget Adjustment	\$6,000.00

MOTION was made by Councilperson Ventry to approve the Budget Transfers/Amendments as presented; seconded by Councilperson Pew; 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. Supervisor Hartman added Voucher

#732 for payment in the amount of \$159,720.00 payable to North Eastern Rescue Vehicles, Inc. for the purchase of Demers MXP 150 Ambulance.

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	670-731	\$38,611.17
Highway Dept. Fund	269-301	\$26,080.49
Fire Dept. Fund	237-261	\$8,765.62
Recreation Dept. Fund	134-141	\$1,921.14
Refuse and Garbage Fund	21	\$46.00
Street Lights Fund	29-31	\$4,721.63
Water Fund	32-33	\$566.38
Trust & Agency Fund	--	--
Capital Fund		
H8320.404	2	\$473.50
H8320.405	11-12	\$6,473.70
Community Development	--	--

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

Departmental Reports:

Department reports for the month of October 2016 were presented by Scott Hultquist, Director of Operations – EMS; Supervisor Hartman for 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; Supervisor Hartman for Susan Brass, Recreation Director; Robert Pietrocarlo, Chairman Board of Assessors and Supervisor Hartman for Joe Ghosen, GIS Consultant. All reports are on file in the Town Clerk’s office.

Matthew Colvin, Eden Fire Chief, requested removing Jack Rigley III, from the active roster due to moving out of town. Jack served for 8 years.

MOTION was made by Councilperson Pew to remove Jack Rigley III from the active roster of the Eden Fire Department, with thanks and appreciation of his 8 years of service to the Town of Eden; seconded by Supervisor Hartman; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Matthew Colvin, Eden Fire Chief, requested declaring the 2011 Ford Expedition Chief’s Vehicle surplus.

MOTION was made by Councilperson Ventry to declare the 2011 Ford Expedition Chief’s Vehicle surplus; seconded by Councilperson Pew; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

New and Unfinished Business:

1. Adoption of tax cap override

Supervisor Hartman read the following:

**TOWN OF EDEN
LOCAL LAW NO. 3-2016**

Section 1. Legislative Intent

It is the intent of this local law to allow the Town of Eden to adopt a budget for the fiscal year commencing January 2, 2017 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government's governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

Section 3. Tax Levy Limit Override

The Town Board of the Town of Eden, County of Erie, is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2017 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

MOTION was made by Supervisor Hartman to approve the Proposed Local Law No. 3-2016 as presented; seconded by Councilperson Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Discussion – Supervisor Hartman stated that many towns in Erie County have decided to override the tax levy in the 2017 budget. Towns can no longer afford to delete fund balances, the 2% is valid, the .68% is not. There is no fat in the budget, it is necessary and responsible. The tax freeze is no longer in place and the passage of this local law will not affect refund checks to homeowners. Motion carried.

2. Approval of Town Budget

Supervisor Hartman stated that the 2017 Budget had been amended to the following:

General	\$2.13 per thousand
Highway	\$3.91 per thousand
Light	\$0.19 per thousand
Fire	\$1.29 per thousand

Refuse will go from \$156.00 to \$177.00 per billable unit and that increase is due to the purchase of new garbage totes.

Supervisor Hartman thanked all department heads and especially Lisa Winter, Bookkeeper for their hard work for the 2017 budget.

MOTION was made by Supervisor Hartman to approve the 2017 budget for the Town of Eden as presented; seconded by Councilperson Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

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

**8:00 pm
Public Hearing
Financing of Water Main Replacement and Water Storage Tank Painting Project**

Supervisor Hartman read the following Order Calling for Public Hearing:

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 the installation of approximately 19,740 linear feet of new water main along various roads in the Town and improvements to water storage tanks in the Town, such work to generally include, but not be limited to, the repainting of Eden #3 Tank and East Church Tank, reconstruction of such tank foundations, repairs to valve vaults, replacement of valves, replacement of tank ladders and electrical outlets, installation of roof vents and handrails, water main interconnection-related work, hydrant-related work, 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 \$4,678,130; said cost to be financed by the issuance of serial bonds of the Town in an aggregate amount not to exceed \$4,678,130, offset by any federal, state, county and/or local funds received.

The following persons appeared in favor of the Increase and Improvement of the District:

There were no comments.

The following persons appeared in opposition of the Increase and Improvement of the District:

There were no comments.

Supervisor Hartman inquired as to whether there were any other persons present who wished to be heard. No one appeared, whereupon Supervisor Hartman declared the public hearing closed.

MOTION was made by Supervisor Hartman to close the public hearing at 8:05 pm; and return to the Regular Meeting of the Eden Town Board seconded by Councilperson Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried

3. Set Public Hearing for Upstate Cellular Tower for 12/14/16 @8:15 pm

Supervisor Hartman read the following “Memo” from the Eden Planning Board:

“Upstate Cellular Network d/b/a Verizon Wireless (“Applicant”) has submitted an application for a Special Use Permit (SUP) for the construction of a 158-foot telecommunications tower off of Webster Road in the Town of Eden.

At the November 2, 2016 meeting of the Planning Board, Verizon presented a preliminary plan of their tower site proposal. Upon review of the submitted plan, and receiving comments from the zoning officer the Planning Board has determined this to be a viable site.

Therefore, the Planning Board hereby makes the following recommendation to the Town Board:

That the Town Board schedules the necessary public hearing in order to consider this site for the proposed use, as requested by Verizon.

We further recommend that if the site is determined to be acceptable to the Town Board; that prior to their issuance of the necessary SUP permit, the Applicant be required to meet and fulfill the following conditions:

- Prepare a final set of plans that are in substantial compliance, in terms of scope and intent, as shown on the submitted preliminary plan that was reviewed by the Planning Board at its November 2 meeting and which plan serves as the basis for this recommendation.
- Prepare and Submit a Site Plan in accordance with Town specifications for approval by the Planning Board.
- The Town Code states that all equipment needs to be surrounded by a fence that shall be not less than eight foot in height. Drawing are labeled six-foot fence with barbwire. Planning Board requested eight foot fencing around the structure.
- A demolition bond (to restore the site) will be required in accordance with the town code.
- If required by FAA to install permanent navigation lights.
- Comply with all other applicable laws, codes, ordinances, or directives of the Town or otherwise.

Respectfully submitted, William Mahoney, Chairman Eden Planning Board”.

MOTION was made by Councilperson Ventry to set the Public Hearing for December 14, 2016 at 8:15 pm; seconded by Councilperson Pew; All “Ayes”; Opposed? - None; Abstain? - None; Discussion: William Trask, Town Attorney asked if the application had been sent to Erie County Department of Environment and Planning with notice of the public hearing? Supervisor Hartman stated that she would confirm with the Secretary of the Planning Board. Motion carried.

4. Approval of list of owed water bills to be forwarded to Erie County

MOTION was made by Supervisor Hartman to include \$5,084.07 in unpaid water bills and Evans back flow prevention system in the amount of \$13,209.00 to tax warrant and authorize the Supervisor to sign the Letter of Authorization and any other paperwork required; seconded by Councilperson Wilhelm; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

5. Approval of Erie County Snow Plow Contract

MOTION was made by Supervisor Hartman to approve the Erie County Snow Plow Contract, a 3-year contract with a 3% increase each year, pending receipt and review of the Town Attorney and Town Highway Superintendent and authorize the Supervisor to sign the agreement, the same agreement for all towns in Erie County; seconded by Councilperson Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

6. Approve Inter-municipal Agreement with the Town of North Collins for Dog Control Services

The following agreement was presented to the Town Board for consideration:

INTER-MUNICIPAL AGREEMENT

Between

The Town of Eden, New York & The Town of North Collins, New York

November 9, 2016

THIS AGREEMENT, entered into effective as of the 1st day of January, 2017, between the TOWN OF EDEN, a municipal corporation (hereafter "EDEN") and the TOWN OF NORTH COLLINS, a municipal corporation (hereafter "NORTH COLLINS");

WHEREAS, the governing body of each of the above mentioned municipal corporations has, by majority vote, approved the actions set forth in this Agreement; and

WHEREAS, the said governing bodies have determined that it is in the best interest of said municipal corporations to enter into this Inter municipal Agreement;

NOW THEREFORE, it is agreed as follows:

1. EDEN hereby agrees to provide "Dog Control Services" to NORTH COLLINS commencing January 1, 2017.
2. For purposes of this Agreement, the term "Dog Control Services" shall mean that the Dog Control Officer of the Town of Eden shall be on call to NORTH COLLINS and the residents of NORTH COLLINS to provide dog control services to the residents of NORTH COLLINS in order to collect and pick up stray dogs and/or animals and to temporarily house, feed, treat, return and/or dispose of said animals as provided by law and any other duties customarily and normally associated with the position of Dog Control Officer. For purposes of this Agreement, "NORTH COLLINS" shall include the entire geographic area of the Town including the Village of North Collins.
3. This Agreement is entered into pursuant to the terms of the General Municipal Law Section 119(o) and is authorized pursuant to said statute.
4. NORTH COLLIS shall pay EDEN the sum of \$2,000.00 annually, with payment due by June 1, 2017 upon invoice from EDEN addressed to the NORTH COLLINS Town Supervisor.
5. This Contract shall be performed as a Provider/Receiver Agreement, with services being rendered by EDEN and received by NORTH COLLINS.
6. The services of employees of the Town of EDEN shall be utilized to perform the services required under this contract. EDEN shall be solely responsible for the payment of said employees and any benefits that may relate thereto. Said employee(s) shall for all purposes remain the employee(s) of the TOWN OF EDEN and shall not be subject to instruction, direction or discipline by any party other than EDEN. Said employees shall provide a written monthly activity report showing all calls answered in NORTH COLLINS. The written report shall be filed with the Town Supervisor by the first Wednesday of each month.
7. This Agreement shall commence January 1, 2017 and expire December 31, 2017.
8. Either party to this Agreement may cancel this Agreement by giving not less than thirty (30) days prior written notice to the other party to this Agreement, said notice to be given by certified mail, return receipt to the address provided in this Agreement.
9. EDEN hereby agrees to indemnify and hold harmless NORTH COLLINS for any injuries, damage or other form of injury occur by reason of the actions of the EDEN Dog Control Officer.
10. NORTH COLLINS shall be required to contract directly with the Eden Veterinary Clinic or some other equivalent agency for cost of housing and/or treating stray animals.
11. Should any written notice be required by one party to the other pursuant to the terms of this Agreement, such notice shall be sent to the following individuals at the addresses set forth below by certified mail, return receipt:

Town of Eden: Melissa Hartman, Supervisor
2795 East Church Street
Eden, NY 14057

Town of North Collins: John Tobia, Supervisor
10569 Main Street
North Collins, NY 14111

MOTION was made by Supervisor Hartman to approve the Inter-municipal Agreement as presented; seconded by Councilperson Ventry; “Ayes”; Hartman, Ventry, Wilhelm, Byrnes; Opposed? - Pew; Abstain? - None; Discussion: Councilperson Pew stated that she opposed the Agreement for the following reasons; the increase of responsibility to Ray Zabron, DCO, the additional gas/mileage, more liability and that the amount of payment to the town of Eden doesn't justify providing the service. Motion carried.

7. Set Public Hearing for December 14, 2016 at 8:00 pm for Special Use Permit Renewals

MOTION was made by Councilperson Pew to set the Public Hearing for December 14, 2016 at 8:00 pm. for approval of Special Use Permits for Cazenovia Recovery Systems, Inc., Crown Castle/Donald Mammoser, Eden Kindercare/St. John’s Church, Norman and Jean Brenner, SBA Towers II, Pamela Henrich, Schreiber & Winkelman, Inc., Richard Minekime, James Gorecki, Upstate Cellular Network, d/b/a/ Verizon Wireless, Rainer and Pamela Sticht, and Meagan Coggins; seconded by Councilperson Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

8. Approve salary for Steve Bugary, Public Safety Dispatcher

MOTION was made by Councilperson Pew to approve the salary for Steve Bugary, Public Safety Dispatcher at \$12.70 per hour; seconded by Councilperson Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

9. Approve Agricultural Use Affidavit

Supervisor Hartman stated that Mark Clark, Code Enforcement Officer requested the Town Board to approve the use of an Agricultural Use Affidavit form to be completed by individuals applying for a permit to be used solely for “farm operations” as described in NYS Agriculture and Markets Law, Article 25-AA.

William Trask, Town Attorney stated that this would tighten up the paperwork and help with the paper trail. It would require the applicant to be sworn, under penalty or perjury by completing the form, which would be notarized.

MOTION was made by Supervisor Hartman to approve the use of the Agricultural Use Affidavit form as presented; seconded by Councilperson Wilhelm; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

10. Receive & File final map & plan for the Master Water Improvement Area and the Violet Tank Project

Supervisor Hartman read the following resolution:

RESOLUTION

Name of Action: Receive and File Map, Plan and Report
Master Water Improvement Area Creation and Water System
Consolidation with the Erie County Water Authority.

WHEREAS, the Town of Eden Town Board is considering the transfer of ownership of the Town water distribution system to the Erie County Water Authority; and

WHEREAS, in order to effectuate the transfer certain capital improvements will be required which the Town Board desires to be paid for by all water system customers; and

WHEREAS, a Master Water Improvement Area must be formed to develop an equitable system-wide fee; and

WHEREAS, the Town Board has requested that the Town Engineer prepare a Map, Plan and Report detailing the capital improvements, the formation of the Master Water Improvement Area and the year one impact to the mode single family home.

NOW, THEREFORE BE IT RESOLVED that upon review and concurrence with the findings contained therein the Town Board hereby receives and files said Map, Plan and Report.

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

11. Health Insurance Renewal

Supervisor Hartman requested the Town Board consider changing the Plan Year for Independent Health for all eligible employees from May 1 – April 30 to December 1 – November 30, 2017. The change would be a benefit to all employees and it has been approved by the Highway and Police contract representatives.

MOTION was made by Supervisor Hartman to change the Plan Year for Independent Health to December 1 – November 30, 2017; seconded by Councilperson Ventry; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

12. Approval of RFP for Comprehensive Plan

Supervisor Hartman read the following:

NOTICE TO BIDDERS

The Town of Eden, located in southern Erie County is requesting proposals from land planning professionals for the preparation of a Comprehensive Master Plan. A new Comprehensive Master Plan is needed to guide the Town's decision making process regarding growth development, and preservation, thereby insuring that the community prospers economically while maintaining its small-town character and preserving essential open space and agricultural lands. A copy of the formal Request for Proposal can be obtained by contacting the town of Eden by the deadline of November 28, 2016, no later than 5:00 pm.

This contract will be funded wholly or partially with federal funds, and as such, is subject to all federal rules and regulations pertinent thereto, including, but not limited to, federal policy of encouraging the participation of minority and women business enterprises as sources of suppliers, equipment, construction and services.

Supervisor Hartman stated that \$45,000 had be secured from Erie County to assist with this project.

MOTION was made by Supervisor Hartman to recognize that RFP's for the Comprehensive Plan were mailed to several companies and individuals, which list is available to view in the Town Clerk's office during normal office hours; seconded by Councilperson Ventry; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

13. Resolution for snowplowing agreement with the Town of North Collins

Supervisor Hartman read the following agreement:

BE IT RESOLVED that the Eden Town Board hereby agrees to enter into a mutual agreement with the Town of North Collins, whereby the Town of North Collins Highway Department will plow Clarksburg Road from the North Collins Town Line to the Eighteen Mile Creek Bridge. In exchange, the Eden Town

November 9, 2016

Highway Department will plow the lower sections of both Belcher and Rocky Mountain Roads.

MOTION was made by Councilperson Byrnes to approve the Snowplowing Agreement with the Town of North Collins as presented; seconded by Councilperson Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

Supervisor’s Report:

- Senator Gallivan secured the additional \$50,000 for the Eden Fire Hall roof.
- Ready Erie App will be available on the website.
- Veterans Day services will be held on 11/11/16 at 11:00 at the Eden American Legion.
- Comprehensive Plan is underway – letters have been sent out.

Hearing of Visitors:

There were none.

Adjournment:

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

Supervisor Hartman adjourned the Regular Meeting of the Eden Town Board at 8:45 P.M.

Executive Session:

Supervisor Hartman adjourned the Executive Session of the Eden Town Board Meeting at 9:15 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk