

January 25, 2017

MINUTES

**TOWN BOARD MEETING
2795 EAST CHURCH STREET
EDEN, NEW YORK
JANUARY 25, 2017
7:00 P.M.**

TOWN BOARD MEMBERS PRESENT:

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

OTHERS PRESENT:

Heather Ohmit	-	Deputy Town Clerk
Debbie Gregoire	-	Administrative Assistant

Call To Order:

Supervisor Hartman called the Work Session of the Eden Town Board to order at 7:00 P.M.

Pledge of Allegiance:

Supervisor Hartman led the assembly in the Pledge of Allegiance to the flag.

New and Unfinished Business:

1. Negative Declaration – JLV Properties

Supervisor Hartman read the following resolution:

**TOWN BOARD OF THE TOWN OF EDEN
RESOLUTIONS ISSUING NEGATIVE DECLARATION AND
APPROVING SPECIAL USE PERMIT
FOR 8159 NORTH MAIN STREET, EDEN, NEW YORK**

Part 1: Negative Declaration Under SEQRA

WHEREAS, the Eden Town Board received an application from JLV Properties for a Special Use Permit to convert the property commonly known as 8159 North Main Street from a business use back to a residential use; and

WHEREAS, this application was previously referred to the Eden Planning Board and the County Department of Environment and Planning for review and recommendation; and

WHEREAS, an Environmental Assessment Form (EAF) was filed and the Eden Town Board previously determined that the proposed project is an unlisted action and declared itself Lead Agency and has conducted a single agency review of the Project; and

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

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

Based upon the Board's thorough and careful review of the Project, 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 SEQR.

REASONS SUPPORTING THE NEGATIVE DECLARATION:

1. 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.

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

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

4. 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 or the use of natural resources by or in the community.

5. Growth, Subsequent Development, etc.: The Project is not expected to induce any significant or adverse growth or subsequent development. The Project area is developed already and ready for residential use with minimal modification to existing improvements.

6. 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.

7. Critical Environmental Area: The Project will not have an impact on any Critical Environmental Area as designated in 6 NYCRR, subdivision 617.14(g).

8. Public Health and Safety: The Project will have no impact.

6NYCRR § 617.1 states that it is the intention of the SEQR regulation “that a suitable balance of social, economic and environmental factors be incorporated in the planning and decision making of State, regional and local agencies. It is not the intention of SEQR that environmental factors be the sole consideration in decision making.”

This Board has considered all of the evidence submitted and has determined that the Project will not have significant adverse environmental impact on the community.

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

2. Approve Special Use Permit request – JLV Properties

Supervisor Hartman read the following resolution:

WHEREAS, the Eden Town Board has issued a Negative Declaration under SEQRA of the application for a Special Use Permit to convert a business use back to a residential use for property commonly known as 8159 North Main Street; and

WHEREAS, the Eden Planning Board has issued recommendations relative to such application; and

WHEREAS, the Town Board has held a public hearing on such application and has considered all comments and input from interested parties and agencies.

NOW, THEREFORE, BE IT RESOLVED, that a Special Use Permit is hereby issued to JLV Properties allowing the property at 8159 North Main Street to be used for residential purposes, and it is further

RESOLVED, that said permit will not require periodic renewal.

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

3. Resolution approving Special Use Permit – Upstate Cellular d/b/a Verizon Wireless

Supervisor Hartman read the following resolution:

**RESOLUTION APPROVING A SPECIAL USE PERMIT
FOR THE PROPOSED UPSTATE CELLULAR NETWORK
158' WIRELESS TELECOMMUNICATIONS TOWER
Webster Road and Route 62**

WHEREAS, the Town of Eden has received a request from Upstate Cellular Network, d/b/a Verizon Wireless (hereinafter “Applicant” or “Permittee”) for a special use permit to construct a 158' wireless telecommunications tower at 3274 Webster Road, in Eden, NY; and

WHEREAS, the Town Board has adopted a negative declaration resolution pursuant to SEQR;

NOW, THEREFORE, be it resolved by the Board that a Special Use Permit for the 158' telecommunications tower at Webster Rd. and Route 62 (as shown on the site plan and specifications approved by the Eden Planning Board) is hereby approved with the following conditions:

1. Permittee shall comply with the co-location standards set forth in chapter 197 of the Town of Eden Code which encourage co-location on existing structures so as to reduce the need for new towers.
2. Permittee shall allow municipal communication equipment for services such as police, fire and EMS to co-locate without rent or other charge, provided such co-location can be accommodated without exceeding the load capacity of the tower and without unreasonably interfering with the performance of existing equipment already located at the tower site and otherwise subject to Permittee's rules and regulations for co-location.
3. The tower and all appurtenant facilities shall be maintained in good order and repair. Permittee shall maintain records of all maintenance; such records to be available to the Town upon request.
4. The Special Permit shall be renewable annually.
5. Every two years, Permittee shall provide, at its sole cost, a certification of structural safety for the tower from a licensed NYS professional engineer based upon an on-site inspection of the tower by such engineer.
6. Every two years, Permittee shall provide, at its sole cost, a certification that the radio frequency emissions do not exceed allowable federal or state limits.
7. The tower shall be removed at Permittee's sole cost if the facility becomes obsolete or fails to be used for its intended purpose for 12 consecutive months. Permittee shall provide a bond running to the Town of Eden sufficient to cover the costs of demolition and removal and the sufficiency of the bond shall be confirmed at least every 5 years by an analysis and report to be provided by a NYS licensed professional engineer, at Permittee's sole cost.
8. Aside from Normal Maintenance, there is to be no modification to the tower or any of the appurtenant facilities without the prior approval of the Town through a validly issue amendment to the Special Permit.

9. The Special Use Permit shall be non-transferable and non-assignable without Town approval in the form of a validly issued amendment to the Special Permit, except for transfers to an entity which owns or is owned by Permittee (of which Permittee shall promptly notify the Town with updated contact information for the new entity and provide updated removal bond and such other information as the Town may reasonably require in order to administer this Permit). Prior to any transfer or assignment, the Town must be notified, in writing of Permittee's intended assignment or transfer and may, in the case of a transfer to a related entity require proof that the new entity meets the above-stated qualifications. Prior to any transfer or assignment, the Town must be provided with such information as may reasonably be required the Town to identify principals and contact persons for the new entity and to otherwise satisfy the Town that the new entity will comply with all of the conditions and requirements of the special Permit.

Note: Bell Atlantic Mobile Systems of Allentown, Inc. is acknowledged as an affiliated operating entity of Permittee for purposes of administering this Permit.

10. The Town shall be involved in any decision involving lighting requirements and may require Permittee to provide shields to minimize visibility of lighting on the ground, subject to any decisions which are under the exclusive control or jurisdiction of the Federal Aviation Administration.

The references herein to specific provision of the “permit standards” contained in Section 197-5 of the Town of Eden Code are made for purposes of highlighting some of those standards and conditions and are not intended to limit the applicability of other conditions set forth in Section 197-5 which remain applicable to this permit even though they are not specifically stated or highlighted herein.

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

4. Resolution Allowing payments in Lieu of Taxes for Certain Solar or Wind Energy Projects

Supervisor Hartman read the following resolution:

**Resolution of Eden Town Board
Directing Timely Written Notification of Intention to Require Payments in Lieu
of Taxes
For Certain Energy Projects Otherwise Exempt from Taxation
Under Real Property Tax Law Section 487**

WHEREAS, Section 487 of the Real Property Tax Law provides for certain solar or wind energy systems or farm waste energy systems to be exempt from county, town and school taxes, and

WHEREAS, Subdivision 9 of Section 487 of the Real Property Tax Law gives local municipalities the option of requiring the owner of a property which includes a solar or wind energy systems or farm waste energy systems to enter into a contract for payments in lieu of taxes, and

WHEREAS, pursuant to Subdivision 9 of Section 487 of the Real Property Tax Law, notification of the town's intent to require a contract for payments in lieu of taxes must be provided by the town within sixty (60) days of the town being notified in writing by an owner or developer of their intent to construct such a system,

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby declares its intention to require a contract for payments in lieu of taxes for such projects, and

BE IT FURTHER RESOLVED, that all Town of Eden officers are directed to immediately notify the Supervisor, Assessor (Chair) and the Town Clerk of any written communication received by such officer notifying the town of an owner or developer's intention to construct or develop such a project or system pursuant to Real Property Tax Law Section 487 (9) and are further directed to promptly provide a copy of such written communication to the Supervisor, Assessor (Chair) and Town Clerk, and

BE IT FURTHER RESOLVED, that the Supervisor and Assessor (Chair) are hereby directed to provide written notification to such owner or developer pursuant to Real Property Tax Law Section 487 (9). The Supervisor and Assessor (Chair) are further directed to keep a permanent record of such written notification having been provided to such owner or developer.

Copies of this resolution are to be provided to all Town of Eden officers.

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

5. Appointment of Eden Recreation Director

Supervisor Hartman requested the appointment of Amy Porter as Eden Recreation Director, with an hourly rate of \$19.00 per hour for a maximum of 19 hours per week, effective January 30, 2017.

MOTION was made by Councilperson Wilhelm to approve Amy Porter as Eden Recreation Director at a rate of \$19.00 per hour for a maximum of 19 hours per week; seconded by Councilperson Pew; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

6. Recreation Board appointments

At the request of the Recreation Board, Supervisor Hartman requested the appointments of Joe Winiecki, Jon Achtyl, Andrew Riedel and Nancy Carpenter to the Eden Recreation Board.

MOTION was made by Councilperson Wilhelm to approve the appointments of Joe Winiecki, John Achtyl, Andrew Riedel and Nancy Carpenter to the Eden Recreation Board ; seconded by Councilperson Pew; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

7. Planning Board appointments

Supervisor Hartman read the following recommendation for appointments from the Eden Planning Board Chairman William Mahoney:

The following members have been recommended to serve another year term on the Eden Planning Board from January 1, 2017 to December 31, 2017.

David Johnson (alternate)
Brian Reed (alternate)

The following member has been recommended to serve another seven-year term on the Eden Planning Board from January 1, 2017 to December 31, 2023.

William Zittel (permanent)

MOTION was made by Supervisor Hartman to approve the Eden Planning Board appointments as presented; seconded by Councilperson Ventry; All "Ayes"; Opposed? - None; Abstain? - None; Motion carried.

8. Approval of alternate life guard

Supervisor Hartman requested the appointment of Makayla Scheu as Alternate Life Guard for Adult Swim with a salary of \$10.00 per hour, effective immediately.

MOTION was made by Councilperson Ventry to approve the appointment of Makayla Scheu as Alternate Life Guard for Adult Swim effective immediately at \$10.00 per hour; seconded by Councilperson Pew; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

9. Designate voting delegate for Annual Business Session of the Association of Towns of the State of New York

No action was necessary on this item as there will not be a delegate attending during the voting session.

10. Authorization to begin Water Project Improvement Easement Agreements

Supervisor Hartman read the following resolution:

**RESOLUTION
TOWN OF EDEN, EDEN TOWN BOARD JANUARY 25, 2017
AUTHORIZING TOWN COUNSEL TO OBTAIN
EASEMENTS REQUIRED FOR
WATERLINE IMPROVEMENTS PROJECT**

WHEREAS, the design has been completed for various waterline improvements within the Town of Eden consolidated Water District and Extensions (hereinafter “Project”), and

WHEREAS, the construction of said improvements will require the Town to obtain fourteen easements on private property, and

WHEREAS, the purchase of these easements will require negotiation by the Town of Eden Attorney.

NOW, THEREFORE, it is hereby

RESOLVED, that Town Attorney, William J. Trask, Sr., is hereby authorized to provide legal services negotiating, procuring and recording agreements with such property owners for easements or rights of way required for such Project, within project budget costs, and be it further

RESOLVED, that the Town Supervisor is authorized to execute any documents required to obtain and record such easement and/or rights of way as negotiated by the Town Attorney.

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

11. Resignation of Lisa Sargent

Supervisor Hartman noted the resignation of Lisa Sargent as exercise instructor. The position has been advertised and applications are being accepted at this time.

12. Acknowledge Special Use Permit Request from Schreiber & Winkelman, Inc.

Supervisor Hartman acknowledged the receipt of a Special Use Permit Request fro Schreiber & Winkelman, Inc. This item will be referred to the Planning Board.

Hearing of Visitors:

January 25, 2017

The following individuals presented their concerns:

Ray Klein - Derelict properties; dumping on property across from Shurfine Market.

Phil Muck - Dumping on property across from Shurfine Market; zombie properties in the Town of Eden.

Bob Stickney- Dumping on property across from Shurfine Market.

Adjournment:

MOTION was made by Supervisor Hartman to adjourn the Work Session Meeting of the Eden Town Board; seconded by Councilperson Pew. All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Hartman adjourned the Work Session Meeting of the Eden Town Board at 7:30 P.M.

Respectfully submitted by,

Heather Ohmit
Deputy Town Clerk