

May 8, 2019

**MINUTES**

**REGULAR MEETING – EDEN TOWN BOARD  
2795 EAST CHURCH STREET  
EDEN, NEW YORK  
May 8, 2019  
7:00 P.M.**

**TOWN BOARD MEMBERS PRESENT:**

MELISSA HARTMAN - SUPERVISOR  
RICHARD VENTRY - COUNCILPERSON  
SUSAN WILHELM - COUNCILPERSON  
MICHAEL BYRNES - COUNCILPERSON  
GARY SAM - COUNCILPERSON

**DEPARTMENT HEADS PRESENT:**

Ronald Maggs - Superintendent of Highways  
Michael Felschow - Chief of Police  
Rick Kirst - East Eden Fire Chief  
Joe Hart - Eden Fire Chief  
Jesse Baker - Code Enforcement Officer

**OTHERS PRESENT:**

William Trask - Town Attorney  
Emily Hawkins - Town Clerk  
Marlene Grunder - Administrative Assistant  
Lisa Winter - Bookkeeper

**Call to Order:**

Supervisor Hartman called the Regular Meeting of the Eden Town Board to order at 7:03 P.M.

**Pledge of Allegiance**

**Approval of Minutes:**

**MOTION** was made by Supervisor Hartman to approve the Town Board Minutes of April 10, 2019 as presented; seconded by Councilperson Wilhelm; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Hartman asked if there were any additions or corrections to the Town Board Minutes of April 10, 2019; there were none.

**Petitions:** There were none.

**Public Comment on Agenda Items Only:** There were none.

**Budget Transfers/Amendments:** There were none.

**Audit Bills:**

**May 2019**

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	245-315	\$44,381.18
Highway Dept. Fund	105-129	\$26,039.17
Fire Dept. Fund	84-112	\$11,404.93
Recreation Dept. Fund	38-48	\$1,520.04
Refuse and Garbage Fund	11-13	\$44,189.43
Street Lights Fund	8-10	\$5,068.26
Water Fund	14-20	\$7,099.47
Capital Fund		
H8230.405	4	\$6,702.63
H8320.406	4	\$1,227.35
H8302.407	6-8	\$278,275.62

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

**Departmental Reports:**

Department reports for the month of May 2019 were presented by Joe Hart, Eden Fire Chief; Rick Kirst, East Eden Fire Chief; Michael Felschow, Eden Police Chief; Ray Zabron, Dog Control Officer; Ronald Maggs, Superintendent of Highways; William Trask, Town Attorney; Emily Hawkins, Town Clerk; Jesse Baker, Code Enforcement Officer; Susan Wilhelm for Amy Porter, Recreation Director; and Supervisor Hartman for Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

**Public Comment on Agenda Items Only:** There were none.

Rick Kirst asked to remove Marie Brehm, Mathew Barker, and Derek Zemla from the active roster with gratitude for their service. Engine 4 has had the tank checked and found nothing wrong.

Supervisor Hartman for Robert Pietrocarlo, the tentative assessment roll is completed and is available on the Town’s website. Grievance day is May 28, 2019 in Town Hall from 6:00PM to 10:00 PM.

William Trask asked for authorization to acquire title insurance for the property located at 9723 New Oregon Road which the Town is acquiring through BENLIC.

**MOTION** was made by Supervisor Hartman approve title insurance and recording fees in an amount not to exceed \$1,200; seconded by Councilperson Sam; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**New and Unfinished Business:**

**1. Create Full Time Position for Civil Service Inventory:**

**MOTION** was made by Supervisor Hartman to approve into our full time Civil Service inventory the position of clerk; seconded by Councilperson Ventry; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**2. Ratification of Authorization of Charles Grieco, Attorney for Water Project:**

**MOTION** was made by Supervisor Hartman to approve Charles Grieco as additional water project attorney at a rate of pay of \$250.00 per hour for non-litigation work and \$275.00 per hour for litigation; seconded by Councilperson Sam; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**3. Proclamation for Poppy Days:**

**Proclamation  
Poppy Days**

**WHEREAS**, America is the land of freedom, preserved and protected willingly and freely by citizen soldiers: and

**WHEREAS**, Millions who have answered the call to arms have died on the field of battle; and

**WHEREAS**, A nation at peace must be reminded of the price of war and the debt owed to those who have died in war; and

**WHEREAS**, The American Legion Auxiliary has pledged to remind America annually of this debt through the distribution of the memorial flower.

**NOW, THEREFOR, BE IT RESOLVED**, that the Eden Town Board does hereby proclaim the 16<sup>th</sup> and 17<sup>th</sup> of May, 2019 as Poppy Days and ask that all citizens pay tribute to those who have made the ultimate sacrifice in the name of freedom by wearing the Memorial Poppy this day.

**MOTION** was made by Supervisor Hartman to approve as read; seconded by Councilperson Wilhelm; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

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**4. Negative Declaration SEQRA for Mixed Use Design Standards and Set Public Hearing:**

SEQRA NOTICE LEAD AGENCY DESIGNATION AND  
DETERMINATION OF SIGNIFICANCE  
FOR TOWN OF EDEN ZONING AMENDMENTS

**Whereas**, the Town of Eden Town Board has proposed amendments to the current Zoning Code for the creation of two new zoning districts for the area around the hamlet of Eden Center, implementing recommendations and goals contained within the Town's Comprehensive Plan, Cultivate Eden, adopted in 2018; and

**Whereas**, the zoning amendment will replace the existing General Business and Office Business Districts located within the hamlet of Eden Center, amending the zoning map and creating new development and design standards and regulations; and

**Whereas**, in accordance with the provisions of 6 NYCRR Part 617 (SEQRA), the project is determined to be a Type 1 Action which is subject to a coordinated review, though no other agencies have jurisdiction over legislative adoptions by the Town of Eden.

**Now Therefore Be It Resolved** that the Town Board hereby designates itself as Lead Agency for the proposed action pursuant to 6 NYCRR Part 617.

**MOTION** was made by Supervisor Hartman to approve the Resolution and authorize zoning referral to Erie County Department of Environmental planning under General Municipal Law 239-m if necessary; seconded by Councilperson Byrnes; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

The draft zoning amendments will be available in the Town Clerk's Office for public inspection.

**MOTION** was made by Supervisor Hartman to set the public hearing for the creation of the two zoning districts on June 12, 2019 at 7:30 p.m.; seconded by Councilperson Byrnes; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

**5. Permission for Highway to Hang Hometown Heroes Banners:**

**MOTION** was made by Supervisor Hartman to approve highway to install brackets and hang Hometown Heroes banners; seconded by Councilperson Byrnes; All – “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

**6. Correction to December 12, 2018 Minutes:**

Supervisor Hartman stated there is a correction to the December 12, 2019 minutes under “Action on Special Use Permits” removing Crown Castle/Donald Mammoser 8635-8687 East Eden Rd. and Schreiber & Winkelman, Inc. 8750 S. Main St. from the Motion approving the special use permit with conditions met. It should also be amended that Councilperson Ventry seconded the Motion not Councilperson Byrnes. Both applicants were not approved in the special use permit renewal.

**CORRECTION:**

Supervisor Hartman read all Special Use Permits scheduled for renewal and subject to compliance.

The following motion was offered:

**MOTION** was made by Supervisor Hartman to approve the renewal of the Special Use Permits with conditions met:

1. Cazenovia Recovery Systems, Inc. - 9136 Sandrock Rd., Eden, NY for the Turning Point House Alcohol Rehabilitation Center,
2. EdenKindercare/St. John's Church – 2871 E. Church St, Eden, NY for the operation of a day care center.
3. Norman & Jean Brenner – 3036 E. Church St., Eden, NY to operate a gravel pit business
4. SBA Towers II – 8174 North Main St., Eden, NY for a telecommunications tower
5. James Gorecki – 8797 East Eden Rd, Eden, NY for a dog boarding/dog grooming facility
6. BAM, previously Upstate Cellular Network, d/b/a Verizon Wireless – Adjacent to Swartz field, Main St, Eden, NY for operation of the Verizon Telecommunications Tower

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7. Rainer & Pamela Sticht – 9293 Sisson Hwy, Eden, NY for the operation of a dog kennel
8. Meagan Coggins – 3728 Schintzius Rd., Eden, NY for the operation of a cat kennel
9. Upstate Cellular Network, d/b/a Verizon Wireless – Webster Road tower for operation of a Verizon Telecommunications Tower.
10. Dr. Robert Hornberger - 8800 S. Main Street, Eden NY for an indoor storage facility; seconded by Councilperson Ventry; All “Ayes”; Opposed? - None; Abstain? - None; Motion carried.

**MOTION** was made by Supervisor Hartman to approve the correction as read; seconded by Councilperson Wilhelm; All – “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

**7. Approval of Sale, Ambulance 805 for \$9,500:**

**MOTION** was made by Supervisor Hartman approving the sale of Ambulance 805, as is, for \$9,500; seconded by Councilperson Sam; All – “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

**8. MS4 (Municipal Separate Storm Sewer System) Annual Report for Public Review and Comment:**

Superintendent Maggs is required to submit this report to the Department of Environmental Conservation annually. A copy of the report will be available in the Town Clerk’s office.

**MOTION** was made by Councilperson Ventry to authorize Supervisor Hartman to sign the MS4 Report once the public review has been completed; seconded by Councilperson Byrnes; All – “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

**9. Bley Street Mill Grant Contract:**

**MOTION** was made by Councilperson Wilhelm to authorize Supervisor Hartman to sign the Bley Street Mill Grant contract; seconded by Councilperson Sam; All – “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

**10. LED Lights Agreement with National Grid:**

Attorney Trask explained that there are two agreements; one for the asset purchase allowing to buy the street lights on the pole in order to do the conversion and the second is the license agreement to allow the lights to stay on National Grid’s utility poles for the LED light conversion.

**RESOLUTION OF EDEN TOWN BOARD**

WHEREAS, the Town of Eden (“Town” or “Eden”) has been in discussions with Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”) to acquire street lighting facilities in the town as a long-term investment that is expected to save Eden taxpayers money as a result of being switched to Service Classification No. 3 under National Grid’s Tariff No. 214, and

WHEREAS, National Grid has undertaken an inventory of street lighting facilities to be acquired by the Town and has provided certain agreements which must be approved and authorized by Eden in order to allow National Grid to start the process required to obtain approval from the New York State Public Service Commission for the sale of the street lighting facilities to Eden, and

WHEREAS, the agreements have been reviewed and found to be appropriate for execution by the Supervisor on behalf of the Town.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Eden hereby authorizes Supervisor Melissa Hartman to execute the Agreement for the Purchase and Sale of Street Lights and the “Exhibit A” License Agreement for Customer-Owned Street and Area Lighting Attachments to Utility Poles and Structures with National Grid, and Supervisor Hartman

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is further authorized to execute any related agreements, instruments or documents required to move this process forward to conclusion, and it is further RESOLVED, that copies of this Resolution be sent to National Grid and any other entity or agency which may request a copy.

Adopted: May 8, 2019

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

**11. Set Bid Opening Date for Demolition of 9723 New Oregon Road:**

**MOTION** was made by Supervisor Hartman to set the bid opening date for demolition of 9723 New Oregon Road on June 17, 2019 at 2:00 p.m. in the Town Clerk’s Office; seconded by Councilperson Ventry; All – “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

**12. Summer Recreation Late Fees:**

On a request of the Recreation Board the following fees will be added to late registration of the Summer Recreation “Camp.”

- Summer “Camp” Registration will open no later than May 21, 2019
- Summer “Camp” Registration will end on June 25, 2019
- Late Summer “Camp” Registration will begin on June 26, 2019 with a \$25 per registration late fee

**MOTION** was made by Supervisor Hartman to approve the \$25 late fee as requested; seconded by Councilperson Sam; All – “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

**13. Amend Recreation Appointments:**

The Recreation Board is asking for the following changes to Summer Recreation Staff:

- Mitch Mason from Playground Assistant to Playground Leader and his wage rate from \$11.35 to \$13.00 per hour
- Brittany Goodrich from Sports Leader Assistant to sports Leader and her wage rate from \$11.20 to \$12.25 per hour.
- Joseph LoTempio from Sports Leader to Grounds and Maintenance Crew and his wage from \$12.25 to \$11.20 per hour.

**MOTION** was made by Supervisor Hartman to approve the changes as read; seconded by Councilperson Byrnes; All – “Ayes”; Opposed? – None; Abstain? - None; Motion carried.

Councilperson Wilhelm noted that Joseph LoTempio stepped in to cover the grounds and maintenance crew opening to help out at the last minute and asked if there was anyway to keep his rate of pay the same based on his years of service. After discussion, Councilperson Ventry referred the question back to the Recreation Board for their review.

**14. Accept Bettyann Neifer Resignation:**

Supervisor Hartman stated that a letter was received from Bettyann Neifer resigning from her position of part-time court clerk effective May 15, 2019.

Supervisor Hartman thanked Bettyann for her 23 years of service to the Town of Eden.

**15. Annual Unified Court System Audit:**

WHEREAS, the Unified Court System of the State of New York requires that town justices annually provide their court records and dockets to their respective town auditing board, and that such records be examined and that fact be entered into the minutes of the board’s proceedings.

NOW, THEREFORE, it is RESOLVED that the Town Board of the Town of Eden has received the audited Statement of Cash Receipts and Cash Disbursement for the Town Justices from Drescher & Malecki LLP, independent auditors.

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

**16. Approval for additional Eden Court Bail Account:**

Resolution for Eden Town Court to Add Additional Bank Account

WHEREAS The Town of Eden recently completed its annual internal audit, and  
WHEREAS Drescher & Malecki LLP completed the audit on behalf of the Town, and  
WHEREAS Drescher and Malecki suggest that the Town consider creating separate bank accounts for each Justice to record their bail activity in order to improve clarity of these transactions, and

WHEREAS the Justices are in agreement to this suggestion

NOW, THEREFORE, BE IT RESOLVED: The Town of Eden gives permission to Eden Court to open an additional bail account at Evans bank.

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

**Supervisor’s Report:**

- 11 businesses submitted applications for the Main Street Grant which are in review by the selection committee and awards will be given on May 17, 2019.

**Councilperson Ventry:** Off road drainage committee is a group of volunteers that walk our creeks in town and spend a great deal of time checking creeks, clearing blockages, cutting trees, etc. He thanked Ron for heading that committee.

**Councilperson Sam:** Spoke to the attorney working on the Fire Policy which should be completing review soon. May 23, 2019 is a joint training with Eden and East Eden which is a live burn at Chestnut Ridge.

**Hearing of Visitors:**

Glenn McLaughlin asked if the full time Clerk’s position that the town is adding to the civil service inventory is intended to be for the Assessor’s Office. Supervisor Hartman responded that the town needs to have certain positions in the civil service inventory in which the job will be part time in the Assessor’s Office and part time in the Supervisor’s Office thus creating a full-time position.

He then asked for clarification on the need for the additional attorney for the water project. William Trask answered that he is the primary attorney on that project however through further discussion with the Water Authority the Town agreed to get another opinion from outside counsel on some of the procedures that had been followed to date, to help us move forward with the Water Authority.

Ray Klein asked if there was anything happening with the unkept property next to Eden Seafood and Pizzeria. Supervisor Hartman responded that there is someone living at the property and the Town and Building inspector are aware and working on the issue.

**Adjournment:**

**MOTION** was made by Supervisor Hartman 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 8:01 P.M.

**Executive Session (personnel):**

Supervisor Hartman adjourned the Executive Session of the Eden Town Board Meeting at 8:30 P.M.

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Respectfully submitted by,

Emily Hawkins, Town Clerk