

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 East Church Street
Eden, NY 14057
July 28, 2021
7:00 P.M.**

**This meeting was held in person and virtually through GoToMeeting.com. The meeting link was made available to the public prior to the meeting.

TOWN BOARD MEMBERS PRESENT:

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

OTHERS PRESENT:

Emily Hawkins	-	Town Clerk
Marlene Grunder	-	Administrative Assistant

Call to Order:

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

Pledge of Allegiance

Public Comments on Agenda Items Only: There were none.

New and Unfinished Business:

1. Ratify Recreation Staff Appointment:

MOTION was made by Supervisor Hartman to approve Danielle Gephart for lifeguarding effective July 19, 2021, at a rate of pay of \$12.50 per hour; seconded by Councilperson Byrnes; Ayes: All; Opposed: None; Abstain: None; Motion carried.

2. Increase Mark Balte's Rate of Pay:

MOTION was made by Supervisor Hartman to increase Mark Baltes rate of pay to \$18.70 per hour effective July 19, 2021; seconded by Councilperson Byrnes; Ayes: All; Opposed: None; Abstain: None; Motion carried.

3. Eden Solar LLC Special Use Permit:

Supervisor Hartman read the following statement:

I first want to thank everyone that has been involved with reviewing and processing the significant amount of paperwork that has been submitted for this project over the past 2 years. The planning board, town attorney, building department, town board and engineering/consultants have carefully scrutinized every detail relative to this project.

As you will hear from the resolution I am about to read, a large amount of work has gone into getting this project here today. For over two years, the Eden Planning Board, Town Board, Town Attorney and Town Consultants have worked to make sure that this project was done properly, always keeping in mind that, as the first renewable-energy project in our community, it would be setting the standard for processing future projects that may seek to locate in Eden. Great effort went into making sure that the best interest of our town and residents were considered at all times as community impacts were carefully identified and evaluated and measures put in place to mitigate possible negative impacts.

As mentioned at the public hearing 2 weeks ago, NYS has a "Green Energy" Plan which includes very aggressive goals for renewable energy projects to be located throughout the state. While not everyone agrees with this Plan, it is part of the laws and policies which are legally binding on local communities such as ours. New York State has taken away from local governments any significant role or voice in the siting of very large, utility-size renewable energy projects. This project was small enough to allow your local officials to have a significant role in having some control over its community impacts.

This project has already had the site plan approved by the Planning Board and it is now simply the duty of the Town Board to issue a Special Use Permit with conditions that will allow continued protections for the life of the project. The special use permit will also include a Community Benefit Agreement that will help fund a local program for farmland protection for many years to come, consistent with Eden's Farmland Protection Program. The concerns brought forth during the July 14th public hearing have been duly considered in arriving at this moment. All proceedings since this project was first introduced have met or exceeded all required notices to the public and information has been publicly available, as required by law.

I want to reiterate that this project is a private project on private land. The town has done its due diligence to identify and address community impacts and the developer, Nexamp/Eden Solar, has been responsive to our efforts to mitigate the issues brought forth. It is our responsibility now to make sure that they uphold their obligations to our community by issuing the Special Use Permit with appropriate conditions.

Councilperson Wilhelm read the following statement:

First of all, I would like to make clear this is not a town sponsored project, for some reason that idea still seems to linger.

Since the inception of this project, I have been one of the liaisons to the Planning board and have witnessed your concerns dating back years. Nine of your fellow citizens (some of which are farmers and some in construction and some engineers) on the Planning Board took your concerns seriously and spent the last couple of years making sure that this project would address those concerns. They have addressed the issues you brought up when many of you attended that first planning board meeting from flooding to the type of seed that will attract pollinators. All of these meetings were open to the public online or in person depending on the regulations from the county or state at the time.

Change is scary and here in Eden we prefer our town to stay just the way it was when we or our families first moved here, but that is unrealistic... Remember the fear over the cell towers, now for the most part they fade into the landscape. This project will allow us as a town to further protect the farmland in Eden, especially since our state government intends to increase solar projects in NYS.

Councilperson Byrnes stated that he was originally opposed to the project, feels it is a bad location, and will be voting no.

Councilperson Ventry stated that the Town had no choice in location of project.

Councilperson Sam stated that the land is private property.

RESOLUTION OF THE EDEN TOWN BOARD – July 14, 2021
Regarding Utility Scale Community Solar Project
7501 Sisson Highway, Eden, New York

WHEREAS, on or about January 24, 2019, the Town of Eden received an application from Eden Solar, LLC (hereafter “Developer”) for a proposed Utility Scale Community Solar Project to be located at 7501 Sisson Highway in the Town of Eden (hereinafter “Project”), and

WHEREAS, the application was referred to the Eden Planning Board (“Planning Board”) as required by the Eden Code and the Planning Board declared itself Lead Agency under 6 NYCRR Part 617 (SEQR), and

WHEREAS, following careful review and consideration of all submissions by Developer including the draft site plan and Environmental Assessment Forms, the Planning Board determined several significant environmental impacts of the project including, but not limited to, loss of farmland located within an existing Agricultural District established pursuant to the N.Y.S. Agriculture & Markets Law for the project’s operating life and contrary to the Town of Eden Farmland Protection Program and, accordingly, the Planning Board issued a Positive Declaration on September 14, 2019, and

WHEREAS, following the issuance of the Positive Declaration, the Planning Board worked with Developer and interested agencies on scoping for the project and the Developer submitted a Draft Environmental Impact Statement (“DEIS”) which identified possible mitigations for environmental impacts, and

WHEREAS, the Planning Board and other Town official² entered into lengthy discussions and negotiations with Developer on steps to mitigate the significant impacts of the Project and came to agreement on such mitigation measures which included site plan modifications, a Host Community Agreement, a Decommissioning Plan and PILOT Agreement with all taxing entities, and

WHEREAS, as a result of such negotiated mitigation measures and on condition of such measures being implemented, the Planning Board rescinded its Positive Declaration at its meeting on June 2, 2021 and issued a Negative Declaration and made recommendations to the Town Board on issuing a Special Use Permit for the revised Project with certain conditions related to the negotiated mitigation measures.

NOW, THEREFORE, IT IS RESOLVED, that the Eden Town Board does hereby approve the issuance to Eden Solar, LLC of a Special Use Permit for a 3.5 MW Community Solar Project on approximately 22 acres of land at property located at 7501 Sisson Highway, Eden, New York (SBL No. 209.00-3-6), as set forth on the site plan approved by the Planning Board, subject to the following:

1. The Special Use Permit is subject to annual renewal to insure compliance with all conditions and to monitor community impacts.
2. Compliance with terms and conditions of Site Plan, Host Community Agreement, Facility Decommissioning Agreement and PILOT Agreement with County, School and Town.
3. Recertification of Decommissioning costs every five (5) years and updating of Decommissioning bond/financial security as required by Decommissioning Agreement and periodic recertification of costs, which shall factor in NYS prevailing wage costs in the event decommissioning needs to be undertaken by a Town contractor.
4. No modifications to approved site plan or site operations and impacts without prior Planning Board review and approval.

MOTION was made by Supervisor Hartman to approve the Resolution as read; seconded by Councilperson Wilhelm; Ayes: Hartman, Ventry, Wilhelm, Sam; Opposed: Byrnes; Abstain: None; Motion carried.

4. Authorization to Execute the Decommissioning Plan:

MOTION was made by Councilperson Ventry to approve the Eden Solar, LLC Decommissioning Plan and authorize Supervisor Melissa Hartman to sign and execute the agreement; seconded by Councilperson Sam; Ayes: All; Opposed: None; Abstain: None; Motion carried.

5. Authorization to Execute the Host Community Agreement:

MOTION was made by Councilperson Wilhelm to approve the Host Community Agreement and authorize Supervisor Melissa Hartman to sign and execute the agreement; seconded by Councilperson Sam; Ayes: All; Opposed: None; Abstain: None; Motion carried.

6. Schedule of Budget Hearings – Posted in Town Hall

7. Skyway Resolution:

Skyway Resolution

Whereas, the Town of Eden is a thriving and vital community engaged in initiatives targeting revitalization, and

Whereas, given the Town of Eden’s location south of the City of Buffalo, the Route 5 and Skyway corridor provides an efficient transportation route and connectivity to the City of Buffalo and points beyond essential to ongoing revitalization efforts, and

Whereas, removal of the Skyway Bridge or restricting vehicle traffic from the bridge would result in significant hardships for the residents and businesses of Eden and the Southtowns.

Now, Therefore Be It, Resolved that the Eden Town board affirms the Skyway Bridge as essential to the community for commerce, revitalization, access to employment, public safety and efficient travel to points north, and opposes its removal or restrictions to vehicle use.

Be It Further, Resolved that the Town Board calls upon the New York State Department of Transportation (NYSDOT) to convene a public meeting within the next thirty (30) days to outline its plans relative to the demolition or prohibition of vehicular traffic on the Route 5 Skyway Bridge and to hear from Southtowns residents relative to their questions or concerns regarding the same, and

Be It Further, Resolved that certified copies of this Amended Resolution be sent to the NYSDOT, Town Boards of Evans, Brant, Hamburg, North Collins, and Collins along with the Boards of the City of Lackawanna and Villages of Blasdell and Hamburg and in addition to United States Congressmen Brian Higgins and Christopher Jacobs, New York State Senators Timothy Kennedy and Patrick Gallivan and New York State Assemblyman David DiPietro

MOTION was made by Supervisor Hartman to approve the Resolution as presented; seconded by Councilperson Sam; Ayes: All; Opposed: None; Abstain: None; Motion carried.

Hearing of Visitors:

The following residents spoke regarding the Eden Solar, LLC project:

- James Schozek 4053 N. Boston Rd.
- Marie and Glen Kerwin 7550 Sisson Hwy.
- Sherry Lockwood 3731 Eckhardt Rd.
- Carol Klein 4676 Eckhardt Rd.
- Rachel & Dan Merta 3522 Eckhardt Rd.
- Wayne Schacher 7463 Gowanda State Rd.
- Judy Conners 3520 N. Boston Rd.
- Gary Eye 3764 Eckhardt Rd.

MOTION was made by Supervisor Hartman to close the Regular Meeting of the Eden Town Board and enter Executive Session for personnel; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

Regular Meeting: Adjourned at 7:50 P.M.

Executive Session: Adjourned at 8:15 P.M.

Respectfully Submitted by:

Emily Hawkins, Town Clerk