

March 23, 2022

MINUTES

**WORK SESSION – EDEN TOWN BOARD
2795 East Church Street
Eden, NY 14057
March 23, 2022, 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

DEPARTMENT HEADS PRESENT:

Amy Porter	-	Assessor
Dave Rice	-	Code Enforcement Officer

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

Assignments – Informational Only:

Additions to Assignments - for year end 2021

A915.6	\$8,000.00 Highway Buildings Project - Aul Construction
	\$3,000.00 Boiler Project for Blue Building
	\$3,000.00 Drainage Project 2018-01
	\$3,000.00 Drainage Project 2021-02
	<u>\$17,000.00</u>
A915.3	\$75,000.00 Assign Fund Balance to General Sick Pay
	\$60,000.00 Assign Fund Balance to Police Sick Pay
D915.2	\$100,000.00 Assign Fund Balance to Highway Sick Pay
SR915.2	\$77,170.00 Assign Grant Funds Received for Future Tote Purchase

Public Comments on Agenda Items:

Peter Sorgi, Attorney representing Rayzor's:

- Office submitted a letter at the March 9th meeting pointing out the inconsistencies in proposed local law #1-2022
- Questioned legality of process in passage of the Local Law
- Asked the Town Board to consider the message they are giving to businesses coming to the town of Eden

Elmer Ploetz:

- Asked Town Board to review the Local Law #1-2022 and close any loop holes so the town does not end up in a lawsuit

Adam Henrich:

- Gave an overview of the amount of taxes, permits, and fees businesses in NYS are already required to pay in order to operate their business
- Stated Local Law #1-2022 would be better as a noise ordinance code than a permitting process

New and Unfinished Business:

1. Local Law #1-2022 – Regulate Amusements and Entertainments in the Town of Eden:

Supervisor Hartman stated that the local law has been reviewed by the Town Board, the town attorney, and the town consultants and a public hearing had been held with many people in attendance. She added that this local law gives businesses guidance for amusements and entertainments and it is the current Town Board’s intent to approve the requested permits. Supervisor Hartman explained that this process began three years ago when the East Eden Tavern wanted to have live music but was not zoned correctly to do so, the Town issued a them a Special Use Permit which was renewed yearly until the zoning code was updated and it was not longer required.

**Town of Eden
Proposed Local Law #1-2022**

A local law regulating Amusements and Entertainments in the Town of Eden.

Be it enacted by the Town Board of the Town of Eden, Erie County, New York as follows:

SECTION I. Purpose.

The purpose of this article shall be to preserve the public safety, peace and good order in the Town of Eden, by regulating commercial or business-related amusements and entertainments as authorized by Town Law Section 130 (12) through regulating and licensing such uses in such a manner as to mitigate adverse impacts upon the community and neighboring properties caused by noise, traffic, parking and other factors which may be produced when amusements/entertainments are not properly conducted with due consideration for public safety and emergency services as well as the peace and good order of neighboring property owners and residents.

SECTION 2. Amusements/Entertainments Covered.

“Amusement or Entertainment” covered by this local law shall include, but not be limited to, theatrical, dramatic and operatic shows or entertainments, musical and non-musical shows or entertainments conducted at or in connection with a commercial or business establishment, including, but not limited to, live vocal and/or musical performances and playing and/or amplification of recordings and/or broadcasts in such locations which have or may have any of the following impacts:

- a. Cause such shows, entertainments, performances or exhibitions to be heard outside of enclosed structures and in such a manner as to impact the peace and good order of the community or neighboring properties.
- b. Cause parking or traffic problems which impact public safety, including, but not limited to, impacting area traffic and/or access by emergency vehicles or first responders.

SECTION 3. License Required; Fee.

No activity constituting an amusement or entertainment, as defined herein, shall be conducted, produced or presented in the Town of Eden without first procuring a license for that purpose issued by the Town Board following application to the Town Clerk and payment of the applicable fee, as established by the Town Board in the Schedule of Fees.

SECTION 4. Licensing Requirements.

- A. All licenses herein provided for shall be processed by application to the Town Clerk and are issued at the discretion of the Town Board following review of a completed application and consideration of the potential impacts of the proposed activities on public safety, the community and nearby properties.
- B. Each applicant shall, prior to the issuance of any license under this law, file with the Town Clerk a signed, written application and pay the required fee as may be determined from time-to-time by Town Board resolution and included in the Standard Schedule of Fees. The application shall give such information as may be required by the Town Board.
- C. The Town Board shall, prior to acting on such application, hold a public hearing to be held on at least ten (10) days prior legal notice to be published in the official town newspaper, posted on the

town website and posted on the Town Clerk's notice board. No such public hearing shall take place unless applicant shall also provide to the Town Board proof that the legal notice was delivered in person or sent by First Class Mail at least seven (7) days in advance of such public hearing to the owners of neighboring properties (as shown on the latest records of the Town Assessor and determined on a front-footage basis) located within 500' of the lot containing the building or location at which the proposed amusements or entertainments are to take place.

- D. Following such public hearing, the Town Board may approve or deny such application and, in the case of approval, may set such conditions as may be appropriate to mitigate any adverse impacts to public safety and/or peace and good order that may result from such amusement or entertainment including, but not limited to, restricting the location, days and hours of operation of such amusements or entertainments, capacity limits, parking and traffic and similar conditions.
- E. The Town Board may also consider any history of complaints resulting from the licensee's operation of amusements or entertainments in making its decision to approve, conditionally approve or deny such application.
- F. The applicant shall be notified by First Class Mail to the address shown on the application of the determination of the Town Board and a copy of such determination shall be filed with the Town Clerk.

SECTION 5. Duration of License; Renewal

- A. All licenses issued under this law shall expire on the 31st day of December next succeeding the date of issuance, unless the Town Board determines that a license for a shorter duration or for a single event is more appropriate.
- B. Renewals of licenses issued under this law shall be considered by the Town Board following application for such renewal by the licensee, to be submitted at least sixty (60) days prior to such expiration. The Town Board must hold a public hearing on such renewal application upon legal notice published and posted at least ten (10) days prior to such public hearing. Prior to such public hearing, the Code Enforcement Officer shall provide a report to the Town Board on the licensee's compliance with existing conditions and may recommend changes to such conditions which meet the purposes of this law.

SECTION 6. Display of License.

Every license issued under this law shall at all times, for the term for which it is issued, be posted at a conspicuous place at or near the principal entrance of the premises described in such license so as to be easily seen and read by any person passing in and out of such premises.

SECTION 7. Enforcement, Suspension or Revocation of Licenses.

- A. The Code Enforcement Officer is authorized to investigate any complaints, document same and issue appropriate process for enforcement actions.
- B. Any license issued pursuant to this law may be suspended or revoked by the Town Board upon a finding of good cause following the licensee being provided a right to a public hearing as provided in Section 8 herein.
- C. Notwithstanding the foregoing, in the event of an egregious, intentional or repeated violation of any conditions of a license issued under this law, a license may be immediately suspended by order of the Code Enforcement Officer delivered to the licensee, pending the hearing provided for herein to further suspend or revoke the license. In such event, the Code Enforcement Officer shall immediately notify the Town Board which shall promptly commence the process for holding the hearing described in Section 8.

SECTION 8. Suspension, Revocation of License; Right to Hearing; Process

- A. The Town Board may revoke or suspend an amusement license for good cause after first conducting a public hearing pursuant to these provisions. Failure of the licensee to appear or respond to the Notice provided for herein shall constitute a waiver of licensee's right to such a hearing and shall provide the basis for the Town Board to take action that may result in suspension or revocation of the license.
- B. "Good cause" shall include a failure of the licensee to comply with all provisions of this law and/or failure to comply with any conditions contained in the amusement license.
- C. Notice.
 - (1) Notice of a possible suspension or revocation of a license for good cause shall be deemed valid if sent by First Class Mail to the licensee at the address provided in the licensee's application. Proof of actual receipt of such mailing shall not be required.

- (2) Such notice shall provide details reasonably designed to inform the licensee of the date, time and place of the charges which serve as the basis for the possible suspension or revocation. Such notice shall also identify any complainants.
- (3) The notice shall provide a date not less than ten (10) days from the date of mailing of a date, time and place at which the licensee will be given an opportunity to show cause before the Town Board why the license should not be suspended or revoked.
- (4) The licensee shall have the following rights at the hearing before the Town Board:
 - (a) The right to have the matter heard at a public hearing by impartial members of the Town Board.
 - (b) The right to be represented by legal counsel.
 - (c) The right to cross-examine and confront any witnesses against licensee and the right to present witnesses on behalf of the licensee, which witnesses shall be subject to cross-examination by the Town Board or its duly-authorized representative.
 - (d) The right to request copies of documents which support the charges lodged.
 - (e) The right to have the charges proved by substantial evidence.
- (5) At any public hearing held pursuant to this law, the technical rules of evidence shall not apply.
- (6) The Decision of the Town Board shall be effective immediately and written notice of such decision shall be mailed to licensee by First Class Mail to the address provided in licensee's application.

SECTION 8. Applicability/Exceptions.

The provisions of this law is intended to only apply to commercial or business establishments which offer amusements or entertainments, as defined herein, to patrons and shall not apply to or include festivals, picnics, bazaars, fairs and kindred amusements or entertainments operated by or at locations owned by organizations established exclusively for the benefit of charity, a religious, social or benevolent society or for public benefit, churches, organizations of churches, organized fire departments or United States veterans of any and all former wars, including auxiliaries of such organizations.

SECTION 9. Penalties for Offenses/Violations.

In addition to any other penalties that may be invoked under this local law, any violation by a person, firm or entity of any provision of this local law shall be deemed to be an offense punishable by a fine not to exceed two hundred and fifty dollars (\$250.00) or imprisonment for a period not to exceed fifteen (15) days, or both. Each day that a violation exists, occurs or continues shall constitute a separate offense.

SECTION 10: Severability.

If any article, section, subdivision, paragraph or prevision of this local law is adjudged to be invalid, such adjudication shall apply only to such portion thereof so expressly adjudged invalid, and the remainder of this local law shall be deemed in all respects valid and effective.

SECTION 11: Effective Date.

This local law shall take effect immediately upon adoption.

#61-2022: MOTION was made by Supervisor Hartman to approve Local Law #1-2022 regulating Amusements and Entertainments in the Town of Eden; seconded by Councilperson Byrnes; Ayes: Hartman, Byrnes, Wilhelm, Ventry; Opposed: Sam; Abstain: None; Motion carried.

Councilperson Sam stated that he opposed the local law because although he feels there needs to be regulations in place, he does not feel that the local law is ready to go to vote and is too vague as written.

2. Local Law #1-2022 Application Fee:

#62-2022: MOTION was made by Supervisor Hartman to approve the application fee for Local Law #1-2022 at \$150 for a new permit and \$75 for the renewal; seconded by Councilperson Wilhelm; Ayes: Hartman, Byrnes, Wilhelm, Ventry; Opposed: None; Abstain: Sam; Motion carried.

3. Appoint Part-Time Assessor Clerk:

#63-2022: MOTION was made by Supervisor Hartman to appoint Kate Paluch as part-time assessor clerk at a rate of pay of \$17.00 per hour for up to 19 hours per week, effective March 24, 2022; seconded by Councilperson Sam; Ayes: All; Opposed: None; Abstain: None; Motion carried.

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4. Summer Recreation Employees:



TOWN OF EDEN RECREATION DEPARTMENT

AMY PORTER, EXECUTIVE DIRECTOR

OFFERING YEAR-ROUND YOUTH AND ADULT PROGRAMS, INCLUDING: ARTS & CRAFTS, BASEBALL, BASKETBALL, CHEERLEADING, FITNESS PROGRAMS, FOOTBALL, KARATE, LACROSSE, MUSIC-ON-MAIN STREET CONCERTS, PICKLEBALL, SOCCER, SUMMER PLAYGROUNDS, SWIMMING, SOFTBALL, TENNIS, TRACK & FIELD, VOLLEYBALL, WRESTLING

RECREATION ADVISORY BOARD: Joseph Winiacki, Chairman • Andrew Riedel, Vice Chairman
• Michael Alvarez, • Cheryl Carpenter • Emily Hawkins • Kate McShea • Randall Perison

2795 East Church Street ★ Eden, New York 14057 ★ (716) 992-3408 ★ Fax (716) 992-4131 ★ amy@edenny.gov

March 21, 2022

Supervisor Melissa Hartman
Councilman Michael Byrnes
Councilman Gary Sam
Councilman Rich Ventry
Councilwoman Susan Wilhelm

Town of Eden
2795 E. Church St.
Eden, NY 14057

Subject: Summer Recreation Positions

Dear Sirs & Madam,

The Recreation Board is recommending the following staff appointment:

Josh Rice to the Grounds and Maintenance department at rate of \$13.50 an hour.

Justin Satanek to the Grounds and Maintenance department at rate of \$13.50 an hour.

Savannah Koszuta to the Town Pool Department at a rate of \$16.00 an hour.

Tyler Wakelam to the Town Pool Department at a rate of \$15.00 an hour.

Dezarae Blaszczyk to Summer Recreation at a rate of \$14.50 an hour.

We ask that this appointment be made at your earliest convenience.

If you have any questions, comments or concerns regarding these requests, please do not hesitate to contact me.

Sincerely,

Town of Eden Recreation Board
Joseph Winiacki
Recreation Chairperson

#64-2022: MOTION was made by Councilperson Ventry to approve the summer recreation employees as submitted; seconded by Councilperson Byrnes; Ayes: All; Opposed: None; Abstain: None; Motion carried.

5. Reappointments to Off-Road Drainage Committee:

#65-2022: MOTION was made by Supervisor Hartman to reappoint Bill Feasley and Mike Damasiewicz to the Off-Road Drainage Committee for a 3-year term; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

6. Reappointments to Off-Road Drainage Committee:

#66-2022: MOTION was made by Supervisor Hartman to reappoint Ron Maggs as Chairman of the Off-Road Drainage Committee for a 3-year term; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

7. Set Public Hearing for Financing of Streetlight Project:

PUBLIC HEARING TO BE HELD ON APRIL 13, 2022

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 Lighting District (the "District"); and

WHEREAS, the Town has decided to participate in the New York State Power Authority's ("NYPA") Energy Efficiency Program to improve energy usage and to reduce costs associated with their street lighting system; and

WHEREAS, the NYPA Program allows for the purchase of street lights from National Grid and the reconstruction or construction of energy efficient LED streetlight; and

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WHEREAS, the Town Board has directed Wendel, competent engineers licensed in New York, to prepare a plan and report for a lighting district capital improvements project within the District (the “Plan and Report”); and

WHEREAS, such lighting district capital improvements project will generally consist of the acquisition of existing streetlights and the reconstruction and replacement of various lighting district infrastructure including, but not limited to, the replacement of existing cobra head street lighting luminaires with energy efficient LED luminaires throughout the Town, as well as other such improvements as more fully identified in (or contemplated by) the Plan and Report, 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 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 \$373,000; said cost to be financed (to the extent permitted) by the issuance of serial bonds of the Town in an aggregate principal amount not to exceed \$373,000, offset by any federal, state, county and/or local funds received.

NOW, THEREFORE, BE IT

ORDERED that a meeting of the Town Board of the Town of Eden will be held at the Town Hall, 2795 East Church Street, Eden, New York, on April 13, 2022 at 7:15 o’clock p.m. (prevailing Time) or shortly thereafter 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 be it

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 principal amount not to exceed \$373,000, 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 be it

FURTHER ORDERED, that this resolution shall constitute the declaration (or reaffirmation) of the Town’s “official intent” to reimburse (to the extent permitted) the expenditures of such lighting district capital project with the proceeds of bonds, notes or other obligations, as required by United States Treasury Regulations Section 1.150-2.

FURTHER ORDERED, that the Town Clerk publish at least once in each newspaper designated as the 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.

#67-2022: MOTION was made by Supervisor Hartman to set the Public Hearing to April 13, 2022 at 7:15 PM; seconded by Councilperson Byrnes; Ayes: All; Opposed: None; Abstain: None; Motion carried.

Work Session:

1. Discussion on Noise Ordinance with Bert Feasley:

Bert Feasley, Eden resident, gave a presentation on proposed decibel levels in the Town of Eden and suggested they be no more than 65 dB at the property line from 7 or 9am to 10pm and 50 dB from 10pm to 7-9am. Mr. Feasley researched and submitted his findings to the Town Board.

Mr. Feasley used a radio to play music at different dB levels as examples of his findings. The Town Board had additional discussion on noise and its effects on residential versus business/commercial parcels.

2. Recreation Department:

Amy Porter gave a detailed presentation on current projects in the Recreation Department and submitted a working Recreation Master Plan identifying current parks and prioritizing needs. The Town Board approved moving forward with a paved fitness trail (previously approved as unpaved) for Swartz Park as additional funding through ARPA is available.

The following items were also discussed:

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- Employees: full time, part time, summer
- Town Hall: cleaning, landscaping, maintenance
- Projects: resurfacing courts, fence around pickleball courts, fitness trail
- Summer Recreation: 3 locations, mini camp, field trips, use of school
- Town Pool: lessons, open swim, condition of pool, lifeguards, Corn Fest and use of pool
- Youth Sports: seasonal, clinics, learn to golf
- Events: Pedal Party June 15, 2022, Star Gazing July 15, 2022

#68-2022: MOTION was made by Supervisor Hartman adjourn the meeting; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

The meeting was adjourned at 8:50 PM.

Respectfully Submitted by:

Emily Hawkins, Town Clerk