

May 25, 2022

MINUTES

WORK SESSION – EDEN TOWN BOARD
2795 East Church Street
Eden, NY 14057
May 25, 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:

Dave Rice	-	Code Enforcement Officer
Susan Johnson	-	Assessor

OTHERS PRESENT:

Emily Hawkins	-	Town Clerk
Marlene Grunder	-	Administrative Assistant
Lisa Winter	-	Bookkeeper
Brian Kulpa	-	Town Planner

Call to Order:

Supervisor Hartman called the Regular Meeting of the Eden Town Board to order at 7:02 P.M.

Pledge of Allegiance

Public Comments on Agenda Items: There were none.

New and Unfinished Business:

1. Proposed Local Law 2-2022 – Regulating Noise in the Town of Eden:

Supervisor Hartman stated that after the public hearing changes were made to the chart of decibels in the proposed noise ordinance. Residential was changed from 55 to 60 and Mixed Use/Business was changed from 70 to 65 from the hours of 7:00 am to 11:00 pm.

#111-2022: MOTION was made by Supervisor Hartman to set the Public Hearing for the purpose of considering the adoption of proposed Local Law #2-2022, being a Local Law Regulating Noise in the Town of Eden to July 13, 2022 at 7:30 PM; seconded by Councilperson Byrnes; Ayes: All; Opposed: None; Abstain: None; Motion carried.

2. Special Use Permit – Crown Castle: Table

3. Permission to Purchase 1-Ton Truck for Highway:

Ron Maggs, Highway Superintendent, explained the need for the emergency purchase, he was notified that on 5/26/22 a selection of fleet purchasing would be opening but expected to close within the same day. Due to availability issues with new vehicles (8+ months) he recommends moving forward with the emergency purchase as there is no time for a formal bid process.

#112-2022: MOTION was made by Supervisor Hartman to approve the emergency purchase from Cappellino Chevrolet, of a 2023 1-ton cab and chassis in the amount of \$40,410.00; seconded by Councilperson Byrnes; Ayes: All; Opposed: None; Abstain: None; Motion carried.

#113-2022: MOTION was made by Supervisor Hartman to approve up to \$55,000.00 from the Equipment Reserve Account D878.2 for the purchase of a 1-Ton Cab and Chassis including flatbed dump (to be ordered separately), subject to Permissive Referendum; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

#114-2022: MOTION was made by Supervisor Hartman to close the Regular Session open the Public Hearing for Local Law 3-2022 Regulating Land Use in the Town of Eden; seconded by Councilperson Byrnes; Ayes: All; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was opened at 7:15 PM.

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**LEGAL NOTICE
TOWN OF EDEN, NEW YORK
NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held by the Eden Town Board in the Eden Town Hall, 2795 East Church Street, Eden, New York on the 25th day of May, 2022 at 7:15 P.M. Local Time, for the purpose of considering the adoption of proposed Local Law #3-2022, being a Local Law regulating land use in the Town of Eden, amending the Eden Zoning Law to implement provisions on the new Town of Eden Comprehensive Plan. Copies of the proposed local law are available for public review in the Office of the Eden Town Clerk. All interested parties will be given an opportunity to be heard.

Supervisor Hartman gave an overview of the proposed Zoning law and asked if there was anyone present to be heard. There were none

#115-2022: MOTION was made by Supervisor Hartman to close the public hearing and open the regular session; seconded by Councilperson Ventry; Ayes: All; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was closed at 7:18 PM.

Supervisor Hartman amended her resolution to re-open the Public Hearing:

Judy Conners questioned frontage allotments in the new zoning code.

Dave Rice gave an overview of frontage changes in the zoning code.

#116-2022: MOTION was made by Supervisor Hartman to close the public hearing and open the regular session; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was closed at 7:29 PM.

4. SEQRA Lead Agency Designation:

This item was canceled as lead agency was declared at the December 28, 2021 meeting.

#117-2022: MOTION was made by Supervisor Hartman to open the Public Hearing for Local Law 4-2022; seconded by Councilperson Sam; Ayes: All; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was opened at 7:30 PM.

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Brian Kulpa, Town planner, stated there were minimal changes to the current code.

Dave Rice stated that the updates allow for cluster development while preserving green space.

Supervisor Hartman asked if there was anyone present to be heard: There were none.

#118-2022: MOTION was made by Supervisor Hartman to close the Public Hearing and open Regular Session; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was closed at 7:34 PM.

The Town Board asked Susan Johnson, Assessor, to give an update on her office after hiring the part time clerk.

Sue Johnson gave the following information:

- With new part time hire the office is redividing duties, setting procedures, and operations
- Sue Pratt has completed her part time work in the office – completed five pages of land edits
- Grievance Night was held on 5/24 – 3 residents attended

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- Reviewed tax abatement information that was previously email to the Town Board to give tax breaks to developers looking to develop parcels in town as pricing for infrastructure (roads/utilities is approximately 1 million per mile), she reviewed the proposed Sonnybrook development as an example
 - Currently 3 parcels assessed at \$140,500 – split into the proposed 15 parcels, each assessment would be at \$48,000 totaling \$720,000
 - Option 1: keep assessment the same until property is developed
 - Option 2: Offer 50% reduction in assessment for three years or until the property is sold or developed (whichever comes first)

#118-2022: MOTION was made by Supervisor Hartman to close Regular Session and open the Public Hearing for Local Law 4-2022 for the Solar Code; seconded by Councilperson Byrnes; Ayes: All; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was opened at 7:40 PM.

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Notice is hereby given that a public hearing will be held by the Eden Town Board in the Eden Town Hall, 2795 East Church Street, Eden, New York on the 25th day of May, 2022 at 7:40 P.M. Local Time, for the purpose of considering the adoption of proposed Local Law #5-2022, being amending Town of Eden Code Chapter 172 (Solar Energy Systems) to implement provisions of the new Town of Eden Comprehensive Plan. Copies of the proposed local law are available for public review in the Office of the Eden Town Clerk. All interested parties will be given an opportunity to be heard.

Supervisor Hartman made following comments on the updates to the Solar Code:

- Grant was received to update code
- A solar company developing in town as well as changes in state regulations lead to a review of the current solar code
- Changes to address the decommissioning plan
- The Town of Eden is a leader in changes to solar codes with the Community Development Agreement that is in place and will bring one million dollars to the Town of Eden to protect agriculture and green space.
- Plan will be used as a template throughout NYS

Supervisor Hartman asked if there was anyone present to be heard:

Wayne Schacher: asked for a map of prime farmland and inquired as to whether the town could stop the sale/purchase of a property based on its proposed use for a solar field.

Brian Kulpa responded that the prime farmland map is located within the Comprehensive Master Plan which is available on the Town's website. He stated that the town can't force someone to farm the land but restrictions are in place to preserve the use of farmland.

The Town Board further clarified that the town cannot stop the sale of a property to an interested buyer.

Mr. Schacher made additional comments regarding set back and screening of the proposed solar fields.

Brian Kulpa stated that there is a 200' setback from adjacent land owners but that roadway access to the parcel can be within the 200' and screening options will be reviewed and approved by the Planning Board.

Bill Trask added that NYS has a strong push for alternative energy and this code helps to preserve the community character as well as protect farmland.

Supervisor Hartman asked if there was anyone else to be heard: There were none.

#119-2022: MOTION was made by Supervisor Hartman to close the Public Hearing for Local Law 4-2022 for the Solar Code and open the Public Hearing for the Wind Energy Code; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was opened at 7:57 PM.

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Notice is hereby given that a public hearing will be held by the Eden Town Board in the Eden Town Hall, 2795 East Church Street, Eden, New York on the 25th day of May, 2022 at 7:50 P.M. Local Time, for the purpose of considering the adoption of proposed Local Law #6-2022, being a Local Law amending Town of Eden Code Chapter 217 (Wind Energy Conversion Systems) to implement provisions of the new Town of Eden Comprehensive Plan. Copies of

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the proposed local law are available for public review in the Office of the Eden Town Clerk. All interested parties will be given an opportunity to be heard.

Supervisor Hartman stated that there were currently no proposed wind farms in the town but this code will prepare the town if one is to come.

There was no one present to be heard.

#120-2022: MOTION was made by Supervisor Hartman to close the Public Hearing for the Wind Energy Code and open the Regular Session; seconded by Councilperson Sam; Ayes: All; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was closed at 7:58 PM.

#121-2022: MOTION was made by Supervisor Hartman to close Regular Session and open the Public Hearing for the proposed Amusement/Entertainment license for Eden Bowling Center, 8716 S. Main St.; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

**LEGAL NOTICE
TOWN OF EDEN, NEW YORK
PUBLIC HEARING**

NOTICE IS HEREBY GIVEN of a PUBLIC HEARING to be held by the Eden Town Board at the Eden Town Hall, 2795 East Church Street, Eden, New York at 8:00 PM on the 25th day of May, 2022. The purpose of the said Public Hearing is to consider the application of Eden Bowling Center, 8716 S. Main St., Eden, NY, for an Amusement/Entertainment license for live outside music events. All interested parties may attend and be heard.

Supervisor Hartman gave an overview of the request and stated that the Eden Bowling Center has no outdoor live music planned as of this date, she read the conditions for approval set forth by the Code Enforcement Officer.

The following people were present to be heard:

Frank Broughton, with Faith Bible Baptist Church, stated that he will work with the Bowling Alley and has no concerns or objections.

Mary Granger, asked for clarification on the location of the stage. Supervisor Hartman stated it is located to the southside of the building and the speakers would be facing inward.

Suzanne Pauley, spoke against the proposed license stating she objects to live outdoor music at their location as she already hears traffic and music from cars driving by. She further stated that issuing of this license will be a burden on local police as they will need to respond to any issues.

Michael Pauley, spoke against issuing the license as he does not want to hear the outdoor music, he wants to be able to enjoy his property and the peace and quiet of Eden.

Mike Balon, objects to issuance of license.

Larry Balon, ask what days and times the Bowling Center was planning to hold live music and if the license would keep the live music to the weekends.

Supervisor Hartman stated there were no dates planned, but the license would not restrict the days in which the live music could be held.

There were no others present to be heard.

#122-2022: MOTION was made by Supervisor Hartman close the Public Hearing and open the Regular Session; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was closed at 8:11 PM.

1. **Proposed Local Law 3-2022:** Table
2. **Proposed Local Law 4-2022:** Table
3. **Proposed Local Law 5-2022:** Table
4. **Proposed Local Law 6-2022:** Table

5. Amusement/Entertainment License for Eden Bowling Center:

Supervisor Hartman made the following comments after the Public Hearing:

- Recognize concerns – Town is taking steps to make sure there are processes in place that if it's too loud there will be actions, as it stands our current noise ordinance states that you can simply "annoy" your neighbor.
- The new process allows conditions to be set and followed by businesses so if they aren't in compliance the ordinance can be enforced.
- Police Department has invested in a measurable device to determine decibel levels.

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Councilperson Sam explained that if the conditions and ordinance is not followed that the business could lose their permit and a permit may not be approved in the future.

Councilperson Byrnes expressed to residents to take comfort and feel protected by what the town has put in place, if there is an issue, it can be addressed.

Councilperson Ventry stated that after the Public Hearing for the noise ordinance the decibel level was changed from 70 to 65 in Mixed Use Zoning.

#123-2022: MOTION was made by Supervisor Hartman to approve the Amusement/Entertainment License for the Eden Bowling Center subject to the following conditions;

1. The business must notify the Town of Eden Building Department no later than 15 days prior to any event held under this License. At the time of receiving notification the information from conditions 2 and 3 must be provided.
2. The business must provide a map of the property showing the location of the stage, pedestrian area, parking area, location of any tents and any other conditions out of normal business.
3. The business must provide proof of the locations for liquor consumption from the SLA if serving liquor.
4. The business must pass an inspection from the Town of Eden Building Department before each event or series of event.

seconded by Councilperson Ventry; Ayes: All; Opposed: None; Abstain: None; Motion carried.

Hearing of Visitors:

Sue Engle asked if any other permits fall in the gap between the approval of Amusement/Entertainment License and adoption of the Noise Ordinance and what would happen.

Supervisor Hartman responded that the Public Hearing for the Amusement/Entertainment License for Schunk's is on June 8th but no other applications have been received. Once an application is received a Public Hearing must be set and the Noise Ordinance would be voted on at the July 13th meeting. So more than likely with the permitted time frames of the application process no other applications would be voted on before the July 13th meeting.

Dave Rice added that the town still has their current noise ordinance that can be utilized.

Mary Granger asked how the decibel levels are measured.

Supervisor Hartman responded that the Police Department has ordered a certified decibel measuring device that requires calibration and registration. If there is a complaint the Officer will set up the device and measure the levels at the property line over a period of time (about 5 minutes). If the reading is over the limit, they will ask the source to turn it down, if they are not compliant, they will be issued a summons.

Susan Pauly asked if noise made from the public attending the events is included in this ordinance.

Supervisor Hartman stated that noise is noise and that it's your right to file a complaint. She stated that before this process there was very little regulation and with the proper SLA licenses businesses could have outdoor music 7 days a week. She stated that the town has listened and has put these practices in place to help regulate past issues.

Dave Rice further clarified that the noise from vehicles and traffic is governed by NYS and not enforceable under the Town's noise ordinance.

Sue Engle thanked the Town Board for the actions they have taken as there was nothing in place prior and believes this process is a great starting point.

Frank Broughton, thanked the town for going through the process of updating their code as it's a hard job and expressed the excellence of the Highway Department.

Larry Pattison asked if residents would be notified of scheduled concert dates.

Supervisor Hartman stated that the approved conditions require the Town to have 15 days' notice but it is not required that notice is given to the general public.

#124-2022: MOTION was made by Supervisor Hartman adjourn the meeting; seconded by Councilperson Ventry; Ayes: All; Opposed: None; Abstain: None; Motion carried.

The meeting was adjourned at 8:29 PM.

Respectfully Submitted by:

Emily Hawkins, Town Clerk