

October 12, 2022

**MINUTES**

**REGULAR MEETING – EDEN TOWN BOARD  
2795 East Church Street  
Eden, NY 14057  
October 12, 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  
GARY SAM - COUNCILPERSON  
MICHAEL BYRNES - COUNCILPERSON

**OTHERS PRESENT:**

Emily Hawkins - Town Clerk  
Lisa Winter - Bookkeeper  
Dave Rice - Code Enforcement Officer  
Marlene Grunder - Administrative Assistant

Supervisor Hartman called the meeting to order at 7:00 P.M.

**Pledge of Allegiance**

**Approval of Minutes:**

#199-2022: MOTION was made by Supervisor Hartman to approve the Town Board Minutes of September 14, 2022 as presented; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

Supervisor Hartman asked if there were any additions or corrections; there were none.

**Petitions:** There were none.

**Budget Transfers:**

| From Account                 | To Account                        | Reason for Amendment   | Amount      |
|------------------------------|-----------------------------------|--|-------------|
| SW917<br>Water Fund Balance  | SW9710.7<br>Bond - Debt Interest  | Rounding on Bond Debt Interest   | \$0.05      |
| A2705<br>Gifts & Donations   | A915.5<br>Assigned - Recreation   | Donation from Southtown's Community Enhancement Coalition<br>to be held for use on recreation project or equipment | \$892.45    |
| D5110.1<br>Roads - Personal  | D5110.4<br>Maintenance of Roads   | Budget Amendment   | \$50,000.00 |
| A915.6<br>Assigned - Non Rec | A8540.4<br>Drainage - Contractual | Use of Assigned funds for balance of<br>Off Road Drainage Project 2021-02  | \$1,505.42  |

#200-2022: MOTION was made by Councilperson Ventry to approve the Budget Transfers as presented; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

**Audit Bills:**

| DESCRIPTION        | VOUCHER NUMBERS | AMOUNT      |
|--------------------|-----------------|-------------|
| General Fund       | 622-704         | \$63,973.22 |
| Fire Dept. Fund    | 208-231         | \$14,934.16 |
| Recreation Fund    | 143-152         | \$2,171.56  |
| Water Fund         | 14-15           | \$1,084.47  |
| Street Lights Fund | 37-40           | \$1,478.55  |
| Refuse Fund        | 17-18           | \$7,566.94  |
| Highway Fund       | 242-275         | \$51,974.27 |

**#201-2022: MOTION** was made by Supervisor Hartman to approve the Audit of Bills as presented; seconded by Councilperson Sam; Ayes: All; Opposed: None; Abstain: None; Motion carried.

**#202-2022: MOTION** was made by Supervisor Hartman to approve payment to Domes Inc. Tree Farm in the amount of \$4,680.00; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

**Departmental Reports:**

Department reports for the month of October 2022 were submitted by Scott Crowe, East Eden Fire Chief; Matt Colvin, Eden Fire Chief; Susan Johnson, Assessor; Greg Savage, Eden Police Chief; Emily Hawkins, Town Clerk; Dave Rice, Code Enforcement Officer; Amy Porter, Recreation Director; Nick Blaszczyk, Dog Control Officer, & Joseph Ghosen. All reports are on file in the Town Clerk's office.

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

**New and Unfinished Business:**

**1. NYSDOT Presentation – Large Culvert Rehab/Replacement Project for 2023:**

Robert Ambrose, Senior Design Engineer, Region 5, NYSDOT presented on the culvert replacements on Rte. 62 and Rte 75 that will take place between 2023 and 2024. The project is expected to take approximately 18 months from start to finish and detours will be between 3-4 weeks' time at each culvert replacement site. The DOT will notify the town of closure dates.

**2. Approval of Tentative 2023 Town Budget as Preliminary Budget:**

**#203-2022: MOTION** was made by Supervisor Hartman to approve the tentative 2023 budget as the preliminary budget; seconded by Councilperson Ventry; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**3. Adopt Proposed Fire Budget:**

**#204-2022: MOTION** was made by Supervisor Hartman to adopt the proposed fire budget as the preliminary budget in the amount of \$475,115.35 with a tax rate of \$1.29 per thousand; seconded by Councilperson Wilhelm; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**4. Trick or Treat Hours – October 31, 2022 6pm-8pm**

**5. Personnel Policy:** Table to 10/26/22 meeting

**6. Add Unpaid Water Bills and Omitted Tax to Tax Warrant:**

**#205-2022: MOTION** was made by Councilperson Wilhelm to include \$779.80 in unpaid 2022 water charges and \$4,127.13 in omitted taxes to the 2023 Town and County Tax bills and authorize the Town Supervisor to sign the Letter of Authorization and any other paperwork required; seconded by Councilperson Ventry; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**7. Board of Assessment Review:**

**#206-2022: MOTION** was made by Supervisor Hartman to appoint Zach Mangialomini to the Board of Assessment Review for a 5-year term; seconded by Councilperson Sam; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**8. Payment in Lieu of Taxes Agreement with Eden Solar:**

**#207-2022: MOTION** was made by Supervisor Hartman to approve the Payment in Lieu of Taxes Agreement for Solar Energy Pursuant to Real Property Tax Law 487; seconded by Councilperson Ventry; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**9. Amend Special Use Permit for Schreiber's Self-Storage:**

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**RECOMMENDATION FROM THE TOWN OF EDEN PLANNING BOARD**

To: Melissa M. Hartman, Supervisor  
Eden Town Board Members

From: William Mahoney, Chairman  
Town of Eden Planning Board

Re: **Special Use Permit Review and Recommendation  
Schreiber's Self-Storage 8750 South Main Street**

Date: May 4, 2022

The Planning Board of the Town of Eden has completed its review of the updated site plan for Schreiber's Self-Storage at 8800 South Main Street in the Town of Eden.

The Planning Board utilized all information submitted by the applicant as well as input from the Town Code Enforcement Officer. Based on the information provided, reviewed and discussed, the Planning Board recommends that the Town Board amend the following Special Use Permit requirements:

- Remove the requirement of a DMV registration for all stored vehicles
- Adjust the number of outdoor vehicle storage spaces from 21 to 62

**#208-2022: MOTION** was made by Supervisor Hartman to amend the Special Use Permit for Schreiber's Self-Storage to remove the requirement of a DMV registration for all stored vehicles and to adjust the number of outdoor vehicle storage spaces from 21 to 62; seconded by Councilperson Ventry; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**10. Special Use Permit for Rusty Whistle:**

September 29, 2022

Supervisor Hartman,

There currently is a Special Use Permit at 2679 Hemlock road (The Rusty Whistle). This SUP is to allow a residential dwelling unit in the rear of the commercial building. The zoning for this address was General Industrial) in the past. The GI zone didn't allow residential dwelling units without a SUP. Currently the zoning has been changed to MU1 and the residential dwelling unit is allowed.

It is my recommendation to the Town Board to terminate the SUP due to the zoning district change.



David L Rice

**#209-2022: MOTION** was made by Councilperson Byrnes to terminate the Special Use Permit for The Rusty Whistle as it is no longer needed based on Zoning District changes; seconded by Supervisor Hartman; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**11. Community Development Block Grant Resolution: Tabled**

**12. Set Public Hearing to Change Senior Exemption and Alt Vets Exemption to Match Erie County's New Limits:**

**#210-2022: MOTION** was made by Supervisor Hartman to set the Public Hearing for the proposed Local Laws to increase exemption amounts for seniors and vets to November 9, 2022 at 7:15 PM; seconded by Councilperson Wilhelm; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**#211-2022: MOTION** was made by Supervisor Hartman to open the Public Hearing for the Community Development Block Grant; seconded by Councilperson Wilhelm; Ayes: all; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was opened at 7:30 PM.

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The Town Board discussed the possible uses for the grant which included:

- Fire Department handicap accessible bathroom upgrades
- Town Hall kitchen – to accommodate senior meals
- Rural Transit services – which is requested yearly

Carl Modica suggested replacement of trees on Green Street.

**#212-2022: MOTION** was made by Supervisor Hartman to close the Public Hearing for the Community Development Block Grant and open the Public Hearing for Local Law 9-2022 Fire Rapid Entry System; seconded by Councilperson Wilhelm; Ayes: all; Opposed: None; Abstain: None; Motion carried.

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

Notice is hereby given that public hearings will be held by the Eden Town Board in the Eden Town Hall, 2795 East Church Street, Eden, New York on the 12th day of October, 2022, for the purpose of considering the adoption of the following proposed Local Laws;

at 7:35 P.M. Local Time; #9-2022, being a Local Law establishing a Fire Department Rapid Entry System.

at 7:40 P.M. Local Time; #10-2022, being a Local Law regulating Mobile Food Vending.

at 7:45 P.M. Local Time; #11-2022, being a Local Law regulating Transient Retail Merchants.

at 7:50 P.M. Local Time; #12-2022, being a Local Law regulating Peddling & Soliciting.

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

Dave Rice gave an overview of the Fire Rapid Entry System, a system set in place to allow the fire department to gain access to a commercial building or gated entry upon arrival in an emergency situation. The Knox Rapid Entry System essentially contains a key to the building which is only accessible to the Fire Department.

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

Adam Henrich asked if certain buildings were exempt such as a gun store, bank, or doctor's office as they may already have requirements from the state as to how to secure their building.

**#213-2022: MOTION** was made by Supervisor Hartman to close the Public Hearing and open the Public Hearing for Local Law 10-2022 Regulating Mobile Food Vending; seconded by Councilperson Wilhelm; Ayes: all; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was opened at 7:44 PM.

Dave Rice stated that the Town does not have an appropriate code to address and regulate mobile food vending. He added that NYS now requires annual inspections for food trucks to operate in the town.

The Town Board had additional discussion on the Local Law and how it will affect businesses and the Eden Farmer's Market. The suggested fee of \$250 was further discussed as some agreed with the cost and some felt it was too high.

The following residents spoke:

Charlene Lopacki stated she felt the fee was high, using the Farmer's Market as an example, as vendors are charged for their space at the market and then would need to pay the mobile food vending permit fee.

Emily Hawkins stated the fee was too high as the Town already has a limited amount of food vendors it would further be restricting access to community members.

Carol Knight stated that the Town should connect with the County and have them oversee one permit for area towns.

Adam Henrich

The Town Board had further discussion on the permit, how it will affect the Farmer's Market and discourse over the fees.

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**#214-2022: MOTION** was made by Supervisor Hartman to close the Public Hearing and open the Public Hearing for Local Law 11-2022 Regulating Transient Retail Merchants; seconded by Councilperson Wilhelm; Ayes: all; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was opened at 8:14 PM.

Dave Rice gave an overview of the local law.

Charlene Lopacki stated that there was a vendor seeing alcohol and marijuana out of a van at the Corn Festival and asked if it was possible to restrict sales of those items.

**#215-2022: MOTION** was made by Supervisor Hartman to close the Public Hearing and open the Public Hearing for Local Law 12-2022 Regulating Peddling and Soliciting; seconded by Councilperson Byrnes; Ayes: all; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was opened at 8:20 PM

Supervisor Hartman gave an overview of the changes to the local law and a proposed increased fee to \$150.00

There was no one present to be heard.

**#216-2022: MOTION** was made by Supervisor Hartman to close the Public Hearing and open the Regular Meeting; seconded by Councilperson Byrnes; Ayes: all; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was closed at 8:24 PM.

**13. Proposed LL 9-2022 Fire Department Rapid Entry System: Tabled.**

**14. Proposed LL 10-2022 Regulating Mobile Food Vending: Tabled.**

**15. Proposed LL 10-2022 Application Fee: Tabled.**

**16. Proposed LL 11-2022 Regulating Transient Retail Merchants: Tabled.**

**17. Proposed LL 11-2022 Application Fee: Tabled.**

**18. Proposed LL 12-2022 Regulating Peddling and Soliciting: Tabled.**

**19. Proposed LL 12-2022 Application Fee: Tabled.**

**20. Resolution on 2<sup>nd</sup> Amendment Rights:**

Councilperson Ventry stated this Resolution came to light when NYS changed gun laws which forced him to put a sign in his restaurant stating that entering the restaurant with a concealed carry permit is allowed. He spoke to residents who oppose infringement on 2<sup>nd</sup> Amendment Rights and offered the following resolution.

**TOWN OF EDEN, NEW YORK**  
RESOLUTION CONDEMNING GOVERNOR KATHY HOCHUL'S  
ASSAULT ON SECOND AMENDMENT RIGHTS

**WHEREAS**, the Second Amendment to the United States Constitution guarantees an individual right to possess commonly owned firearms for the lawful purpose of self-defense;

**WHEREAS**, the United States Supreme Court struck down the proper cause provision of the New York State pistol permit application, requiring New York to become a "shall issue" pistol permit state on June 23, 2022 in the case of *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*; and

**WHEREAS**, in the same *New York State Rifle & Pistol Ass'n, Inc. v. Bruen* majority opinion, the United States Supreme Court held that all firearms laws that are inconsistent with the nation's history and traditions of firearms regulations are per se unconstitutional; and

**WHEREAS**, New York Governor Kathy Hochul in a willful and deliberate affront to the *NYSRPA v. Bruen* decision signed into law numerous onerous and unconstitutional laws restricting the lawful possession, ownership, and carry of handguns, long guns, and ammunition, and

**WHEREAS**, all of Governor Kathy Hochul's new restrictions on the licensure and carry of handguns and semiautomatic rifles, and the purchase of ammunition are uniformly inconsistent with our national history and traditions of firearms ownership and thus *per se* unconstitutional according to the United States Supreme Court;

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NOW, THEREFORE, be it

**RESOLVED** that the Town of Eden hereby condemns Governor Hochul's unjust and illegal assault on New Yorker's Second Amendment rights and demands that Governor Hochul immediately work to reverse all such firearms laws signed into law during the entire course of her tenure as Governor of the State of New York.

**#217-2022: MOTION** was made by Councilperson Ventry to approve the resolution as presented; seconded by Councilperson Byrnes; Ayes: Byrnes, Wilhelm, Sam, Ventry; Opposed: Hartman; Abstain: None; Motion carried.

Supervisor Hartman stated that she felt this was a political statement and that the Town Board is not able to change such laws.

**Supervisor's Report:**

- 2023 Budget, conserve at \$4.00 per \$100,000 assessed value
- Tree grant for parks – work is complete
- Town applied for grant for a zero emissions charging station at Town Hall

**Susan Wilhelm:** Eden Library – Family Story Time – Friday's at 11:00 AM.

**Hearing of Visitors:**

Elmer Ploetz: Gun rights are a divisive topic; town has no control over the law.

Adam Henrich: Applauded Town Board for voting in favor of the gun control resolution, does affect the Town as there is a gun store in town.

Charlene Lopacki: Thanked Town Board for passing the gun control resolution.

**#218-2022: MOTION** was made by Supervisor Hartman to close the Regular Meeting of the Eden Town Board and enter into Executive Session for Highway Contractual; seconded by Councilperson Ventry; Ayes: All; Opposed: None; Abstain: None; Motion carried.

Supervisor Hartman adjourned the Regular Meeting of the Eden Town Board at 8:45 P.M.

Executive Session closed at 9:15 PM

Respectfully Submitted by:

Emily Hawkins, Town Clerk