

May 8, 2013

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
EAST EDEN FIRE HALL
8097 EAST EDEN ROAD
EDEN, NEW YORK
MAY 8, 2013
7:30 P.M.**

TOWN BOARD MEMBERS PRESENT:

GLENN R. NELLIS - SUPERVISOR
MARY LOU PEW - COUNCILWOMAN
EDWARD KRYCIA, JR - COUNCILMAN
RICHARD S. VENTRY - COUNCILMAN
FRAN MCLAUGHLIN - COUNCILMAN

DEPARTMENT HEADS PRESENT:

Mark Cavacoli - Town Engineer
Ronald C. Maggs - Superintendent of Highways
Michael J. Felschow - Chief of Police
Jack Rigley - Eden Fire Chief
Andrew Breier - East Eden Fire Chief
Robert Pietrocarlo - Chairman Board of Assessors
Ray Zabron - Dog Control Officer

OTHERS PRESENT:

William Trask - Town Attorney
Mary Jo Hultquist - Town Clerk
Lisa Greiner - Administrative Assistant

Call to Order:

Supervisor Nellis called the Regular Meeting of the Eden Town Board to order at 7:30 P.M.

Pledge of Allegiance:

Supervisor Nellis led the assembly in the Pledge of Allegiance to the flag followed by a moment of silence.

Approval of Minutes:

Supervisor Nellis asked if there were any additions or corrections to the Town Board Minutes of April 10, 2013; there were none.

MOTION was made by Councilman Ventry to approve the Town Board Minutes of April 10, 2013 as presented; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Petitions:

There were none.

Budget Transfers/Amendments:

From Account	To Account	Reason for Amendment	Amount
SF878 Capital Reserve Fire	SF3410.2 Fire Equipment	Edens base station install. & East Eden station radios per permissive referendum	\$4,802.65
A911 Fund Balance	A879 Bldg. Maint. Reserve	Grant money for Hwy. Garage floor improv. Rec'd in Feb. back to 2012 as a receivable	\$15,209.39

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SF9710.6 Bond Principle	SF9950.9 Xfer out to Capital	Reclassify Budget for Fire BAN Princ.	\$35,000.00
SF9710.7 Bond Interest	SF9730.7 BAN Interest	Reclassify Budget for Fire Ban Princ.	\$15,956.00
SW8320.4 Water Contractual	SW9710.6 Bond Principal	WD#4 Portion of Consolidate Debt. Princ.	\$1,180.12
SW8320.4 Water Contractual	SW9710.7 Bond Interest	WD#4 Portion of Consolidate Debt Inter.	\$1,742.34
SW.9710.651 Bond Principal WD#5A	SW.9950.9 Xfer Out to Capital	WD#5 BAN Principle to Capital	\$69,000.00
SW9710.652 Bond Principle WD#5B	SW.9950.9 Xfer Out to Capital	WD#5B BAN Principle to Capital	\$6,000.00
SW.9710.6 Bond Principle	SW.9950.9 Xfer Out to Capital	Reclassify Consolid. Water Principle for Phase II & WD #5	\$15,000.00
SW.9710.7 Bond Interest	SW9730.7 BAN Interest	Reclassify Consolid. Water BAN Interest for Phase II & WD #5	\$12,760.00
SW884 Reserve For Debt	SW9950.9 Xfer Out to Capital	Use unused funds from Phase II Water Project to pay down BAN principle	\$120,000.00

MOTION was made by Councilwoman Pew to approve the Budget Transfers/Amendments as presented; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Audit Bills:

Supervisor Nellis asked if there were any changes or additions to the “Audit of Bills” which are on file in the Town Clerk’s office. There were none.

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	209-279	\$87,019.62
Highway Dept. Fund	115-142	\$28,251.09
Fire Dept. Fund	72-106	\$42,294.78
Recreation Dept. Fund	35-51	\$4,151.86
Refuse and Garbage Fund	4-6	\$38,445.09
Street Lights Fund	9-11	\$4,906.80
Water Fund	14-21	\$28,265.22
Trust & Agency Fund	--	--
Capital Fund		
H8320.402	4	\$5,000.00
H8320.403	3-6	\$47,483.30
Community Development	--	--

MOTION was made by Councilwoman Pew to approve the Audit of Bills as presented; seconded by Councilman Ventry; All “Ayes”? Opposed? – None; Abstain? – None; Motion carried.

Departmental Reports:

Department reports for the month of April 2013 were presented by Jack Rigley, Eden Fire Chief; Andrew Breier, East Eden Fire Chief; Michael Felschow, Eden Police Chief; Ray Zabron, Dog Control Officer; Ronald Maggs, Superintendent of Highways; William Trask, Town Attorney; Mary Jo Hultquist, Town Clerk; Supervisor Nellis for Scott Henry, Zoning Code Enforcement Officer; Supervisor Nellis for Susan Brass, Recreation Director; Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

New and Unfinished Business:

1. Annual Audit Report – Drescher & Malecki

Supervisor Nellis introduced Luke Malecki and Nichole Ruf, partners from the accounting firm of Drescher & Malecki, LLP. They presented the Town Board with copies of the Town Audit, which are on file in the Town Clerk's office.

2. Itemize Fire Company Equipment Bids

Supervisor Nellis stated that the bid opening is on May 10, 2013 and the results would be available after that date and approved at the next Town Board meeting.

MOTION was made by Councilman McLaughlin to close the Regular Meeting of the Eden Town Board and open the Public Hearing for Abandonment of Paper Street Known as South Street seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

**8:00
Public Hearing
Abandonment of Paper Street
Known as South Street**

Supervisor Nellis explained the purpose of the public hearing was to listen to any concerns or questions that citizens have.

There were no comments.

William Trask, Town Attorney stated that in 1945 the Town of Eden received the deed to South Street, so the town owns title to that land. If the town decides that the land is of no use to the public, it may decide to abandon the South Street, which would be subject to Permissive Referendum.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the Public Hearing at 8:10 p.m.

MOTION was made by Councilman Krycia to close the Public Hearing and return to the Regular Meeting of the Town Board; seconded by Councilman McLaughlin; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

3. Resolution Approving Town Highway work on Back-up Generator at Pump Station #1

Supervisor Nellis read the following resolution:

MOTION was made by Supervisor Nellis to approve the Eden Highway Department undertaking the landscaping and excavation work, estimated at \$39,000.00, for the back-up Generator work project scheduled for Eden Pump station #1 as agreed to by the Erie County Water Authority and O'Connell Electric, the primary contractor on this project, and as paid for out of the Consolidated Water District Fund Balance, seconded by Councilman Krycia; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

4. Approval of purchase of wheel loader subject to Permissive Referendum by Highway

Ron Maggs, Highway Superintendent requested up to \$40,000.00 from the Equipment Reserve Account #9950.9 for a new Wheel Loader, subject to Permissive Referendum.

Supervisor Nellis read the following resolution:

RESOLUTION AUTHORIZING SUPERVISOR GLENN R. NELLIS TO EXPEND FUNDS FROM THE HIGHWAY CAPITAL (EQUIPMENT) RESERVE FUND OF THE TOWN OF EDEN, SUBJECT TO PERMISSIVE REFERENDUM.

The Town Board of the Town of Eden, duly convened in regular session, does hereby resolve pursuant to the provisions of Section 6-c of the General Municipal Law of the State of New York that the Town Supervisor of the Town of Eden be and is hereby authorized and directed to appropriate a sum not to exceed \$40,000.00 from the Highway Capital (Equipment) Reserve Fund of the Town of Eden for the purpose of purchasing a new Wheel Loader.

This resolution shall be subject to a permissive referendum, as permitted by law.

MOTION was made by Supervisor Nellis to approve the resolution as presented; seconded by Councilwoman Pew; All "Ayes"; Opposed? – None; Abstain? – None; Motion carried.

5. Resolution recognizing Town Clerk

Supervisor Nellis recognized Mary Jo Hultquist, Town Clerk for Municipal Town Clerk's week, May 6 – 9, 2013.

6. Notice of Abandonment on South Street property

William Trask, Town Attorney read the following resolution:

**TOWN OF EDEN
RESOLUTION OF HIGHWAY ABANDONMENT**

WHEREAS, by deed dated December 22, 1945, the Town of Eden took title to a 50 foot wide strip of land known as "South Street", which remains an unimproved road in the Town of Eden, and

WHEREAS, on or about April 1, 2013, the Town of Eden and Highway Superintendent of the Town of Eden received a written request from Carl W. and Diane E. Feasley requesting the Town of Eden to formally abandon all rights to "South Street", and

WHEREAS, the request for abandonment was referred to the highway department and the town engineers for investigation and report, and both the Highway Superintendent and the Town Engineer have duly reported to their Town Board that they had no objection to granting the request for abandonment of "South Street", and

WHEREAS, the Eden Town Board, on proper legal notice, held a public hearing on the request for abandonment of "South Street" at a regularly scheduled meeting of the Town Board on Wednesday, May 9, 2013 at 8:00 p.m.

NOW, THEREFORE, it is hereby

RESOLVED that following the receipt and review of the reports noted above and the holding of the public hearing, the Town Board of the Town of Eden hereby determines that there is no current or anticipated public use for the subject parcel and does hereby authorize the abandonment of the unimproved "paper street" commonly known as "South Street", and it is further

RESOLVED that, following the completion of the applicable permissive referendum process, the Highway Superintendent and Supervisor are hereby authorized to execute, in proper form as prepared by the Town Attorney, a Certificate of Abandonment of said "South Street", and the Supervisor is hereby authorized to execute and deliver to Carl W. and Diane E. Feasley ("grantees") a deed executed by him in the name of the Town of Eden conveying to the grantees, without warranty, title in fee simple such deed to be recorded by the grantees in the office of the Erie County Clerk together with a copy of the said Certificate of Abandonment attached thereto.

This Resolution is subject to permissive referendum.

MOTION was made by Councilman Krycia to approve the resolution as presented; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

7. Amendment of Town Code to include commercial cat kennels

Supervisor Nellis stated that this item be “tabled” to be reviewed and discussed at a future town board meeting.

8. MS4 Annual Report

Councilwoman Pew read the following resolution:

RESOLUTION

WHEREAS, the draft Year 10 MS4 Annual Report for the Town of Eden has been prepared by the combined efforts of the Town designated MS4 coordinator, Highway Superintendent Ron Maggs and the Town Engineer, CRA Engineering; and **WHEREAS**, this draft Report will be available for public review and comment, for a period of 2 weeks, in the Town Clerk’s Office and the Town Supervisor’s Office;

NOW, THEREFORE, BE IT RESOLVED that the Town Board authorizes the Supervisor to accept this Annual Report and sign the Report to be submitted to the NYS Department of Environmental Conservation, as required by the NYS DEC.

MOTION was made by Councilwoman Pew to approve the resolution as presented; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

9. Off-Road Drainage Report

Ron Maggs, as Chairperson of the Off-Road Drainage committee is recommending that the town board approve the following projects:

Project 2013-01: Hemlock Road @2567 – clean the ditch near 2567 Hemlock Road for approximately 400’ at a cost not to exceed \$2,000.00.

Project 2013-02: Hand clearing of obstructions on various creeks and ditches as needed at a cost not to exceed \$1,200.00.

MOTION was made by Councilman McLaughlin to approve Project 2013-01 and Project 2013-02 as presented; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

10. Appointment to Planning Board for Alternate Member position

Supervisor Nellis read the following Memo from Mark Agle, Chairman of the Eden Planning Board:

“The Planning Board is requesting that an appointment to their board be done at your next Town Board meeting. Mr. David Johnson applied for the vacant alternate position and was unanimously voted in at our April 30, 2013 board meeting. This position is appointed on a yearly basis, it is for an alternate member.”

MOTION was made by Councilman Krycia to appoint David Johnson to the position of alternate member of the Eden Planning Board for the remainder of 2013, at which time an appointment would be made at the re-organizational meeting of the Eden Town Board; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

11. Adjustment to Town Attorney salary

Supervisor Nellis stated that an adjustment to the Town Attorney’s salary was in order, as it was missed at the re-organization meeting in December, 2012. The new salary is \$28,787.00, which is a 2% increase.

MOTION was made by Supervisor Nellis to adjust the Town Attorney’s salary to \$28,787.00; seconded by Councilwoman Pew; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

12. Expenditure for emergency packs/equipment

Councilwoman Pew read the following resolution:

**RESOLUTION AUTHOIRZING SUPERVISOR GLENN R. NELLIS
TO EXPEND FUNDS FROM THE CAPITAL RESERVE FUND OF THE
TOWN OF EDEN
SUBJECT TO PERMISSIVE REFERENDUM**

The Town Board of the Town of Eden, duly convened in regular session, does hereby resolve pursuant to the provisions of Section 6-c of the General Municipal Law of the State of New York that the Town Supervisor of the Town of Eden be and is hereby authorized and directed to transfer from the Capital Reserve Account SF878 of the Town of Eden to the Fire Equipment Account Number SF3410.2, a sum not to exceed \$90,000 from said Reserve Fund for costs related to the purchase of 11 Retrofit for existing packs, 24 new cylinders 4500 30 min. and 12 New Scott Packs NxG7 with Escape (Bailout) System and authorizing the Town Supervisor to expend these funds for this purpose.

This resolution shall be subject to a permissive referendum, as permitted by law.

MOTION was made by Councilwoman Pew to approve the resolution as presented; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

13. Approval of bid on Schoolview Drive Water Project

Mark Cavacolli, CRA Engineering read the following bid results:

“On Thursday, May 2, 2013 at 10:00 a.m. local time, the Town of Eden received three bids for the above-referenced project. The bids were as follows:

Bidder	Total amount of bid
E & R General Construction, Inc.	\$ 396,425.00
New Frontier Excavating & Paving	\$ 409,200.00
Sicar Management & Construction, Inc.	\$ 436,334.45

We have reviewed the qualifications and experience of the low bidder for the above-referenced project, E & R General Construction, Inc., and have found they have performed similar work acceptably. We, therefore, recommend award of Schoolview Drive Watermain Replacement to E & R General Construction, Inc., in the total bid amount of \$396,425.00, contingent upon availability of project funding and review by the Town Attorney.” Signed by Daniel J. Kolkmann, Construction Manager, CRA Infrastructure & Engineering, Inc.

MOTION was made by Councilman Krycia to award the bid to E & R General Construction, Inc. in the total bid amount of \$396,425.00 upon availability of project funding and review by the Town Attorney; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

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Supervisor's Report:

- Joe Ghosen, GIS Consultant filed monthly report for April 2013
- Keller Road project completed, much cooperation from the Town of Boston
- Working on grant with Eden Valley Growers for additional cooling system

Hearing of Visitors:

There were none.

Adjournment:

MOTION was made by Councilman McLaughlin to adjourn the Regular Meeting of the Eden Town Board; seconded by Councilman Ventry; All – “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor Nellis adjourned the Regular Meeting of the Eden Town Board at 8:50 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 10:00 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk