

August 14, 2013

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD
2795 EAST CHURCH STREET
EDEN, NEW YORK
AUGUST 14, 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
Scott Glenn - Eden Fire Department
Robert Pietrocarlo - Chairman Board of Assessors
Susan Brass - Recreation Director
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 July 10, 2013; there were none.

MOTION was made by Councilman Krycia to approve the Town Board Minutes of July 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
A3120.2 Police-Equipment	A915.6 Fund Balance Assigned-General	Amount budgeted for next police car that will not be purchased until 2014	\$19,000.00

SF878 Fire Equipment Reserve	SF3410.2 Fire-Equipment	Use of reserve to purchase airpacks	\$87,841.00
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MOTION was made by Councilwoman Pew to approve the Budget Transfers/Amendments as presented; seconded by Councilman Ventry; 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	427-512	\$69,245.98
Highway Dept. Fund	208-230	\$144,275.45
Fire Dept. Fund	151-176	\$101,514.23
Recreation Dept. Fund	97-119	\$5,300.16
Refuse and Garbage Fund	11	\$37,410.00
Street Lights Fund	18-20	\$4,281.56
Water Fund	33-38	\$6,965.17
Trust & Agency Fund	--	--
Capital Fund		
H3410.2	--	--
H8320.402	--	--
H8302.403	11-12	\$271,910.65
Community Development	--	--

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

Departmental Reports:

Department reports for the month of July 2013 were presented by Glenn Scott for Jack Rigley, 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; Susan Brass, Recreation Director; Robert Pietrocarlo, Chairman Board of Assessors. All reports are on file in the Town Clerk’s office.

Ron Maggs, Highway Superintendent requested permission to help the Eden Jr./Sr. High School with the scoreboard installation as needed.

MOTION was made by Councilwoman Pew to grant permission to Ron Maggs, Highway Superintendent to assist with the installation of the new scoreboard at the Jr./Sr. High School as needed; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

New and Unfinished Business:

1. Resolution on Snow Contract

Supervisor Nellis read the following resolution:

ERIE COUNTY SNOW PLOWING AND ICE CONTROL

WHEREAS, the Town of Eden recognizes that plowing and de-icing town, as well as county roads, is in the best interest and safety of its residents; and

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WHEREAS, Erie County and the 25 towns within the county have negotiated contracts which assure that the majority of the county roads within the towns would be maintained according to the same snow and ice control methods used on all town roads; and

WHEREAS, such methods have been approved by the Erie County Department of Public Works; and

WHEREAS, in the past, all costs of manpower, equipment and materials have been calculated to the satisfaction of all parties; and

WHEREAS, any issues that have arisen during snow and ice control in previous years have been resolved by all parties involved; and

WHEREAS, a new contract between the Towns and Erie County is currently being negotiated; and

WHEREAS, on March 20, 2013, there was a tentative agreement between the towns and Erie County which included a 3-year term with an annual increase of 5.0%, as was past practice; and

WHEREAS, this agreement was considered fair and within budgeting confines of Erie County; and

WHEREAS, on April 16, 2013, Erie County made a counter proposal to increase the contract from 3 years to 5 years and to reduce the monetary increase to 0.5%; and

WHEREAS, the county proposed rate is one the towns can not afford; and

WHEREAS, the budgetary planning for 2014 is going to start in many municipalities; and

WHEREAS, the deadlines for towns to order road salt de-icer is now past.

NOW, THEREFORE, BE IT RESOLVED that the Town of Eden calls on the Erie County Executive and the Erie County Legislature to help resolve the issue between the Erie County Department of Public Works and the 25 towns within the County of Erie with regards to snow removal and de-icing of county roads within the towns that is fair and equitable to all parties; and

BE IT FURTHER RESOLVED that the Town Clerk of the Town of Eden is to transmit copies of this Resolution to Erie County Executive Mark Poloncarz, Erie County Legislator John Mills, Erie County Legislature Chairwoman Betty Jean Grant and Erie County Department of Public Works Commissioner John Loffredo, the Majority and Minority leaders of the County Legislature, and the other towns within Erie County.

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

2. Relocation of Electrical Pole at Swartz Field

William Trask, Town Attorney read the following resolution:

RESOLUTION

WHEREAS, the Town of Eden is the owner of certain property located in the Town of Eden, Erie County, New York described in a certain deed recorded in the Erie County Clerk's Office in Liber 10194 of Deeds at page 518, said lands also being commonly known as 8534 North Main Street, Town of Eden tax parcel number SBL 238.07-1-21; and

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WHEREAS, Niagara Mohawk Power Corporation is the grantee of a certain easement dated May 5, 2009 and recorded in the Erie County Clerk's Office in Liber 11165 of Deeds at page 335 which effects said property owned by the Town of Eden; and

WHEREAS, said easement provides Niagara Mohawk Power Corporation with the right, among others, to relocate said easement from time to time; and

WHEREAS, the Town of Eden has requested Niagara Mohawk Power Corporation to extend a portion of its easement to accommodate the location of a new utility pole, and said request is mutually acceptable to Niagara Mohawk;

NOW, THEREFORE, the Town of Eden does hereby approve the grant of an amendment to the original easement referenced above for premises commonly known as 8534 North Main Street extending the existing easement area to a point approximately 145 feet, more or less, north of the southwest corner of the subject premises as measured along the westerly line of subject premises and as show on Exhibit "B" attached to the proposed "Easement Modification Agreement" between the Town of Eden and Niagara Mohawk Power Corporation, subject to permissive referendum.

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

The following legal notice is to be published in The Sun:

**NOTICE OF ADOPTION OF RESOLUTION BY
EDEN TOWN BOARD
SUBJECT TO PERMISSIVE REFERENDUM**

Notice is hereby given that on August 14, 2013, the Town Board of the Town of Eden adopted a resolution granting a modification to an existing utility easement in favor of Niagara Mohawk Power Corporation on municipal property commonly known as 8534 North Main Street in the Town of Eden. Such modification extends the area of the said easement to accommodate the location of a new utility pole determined to be needed on the site. The grant of such easement modifications is subject to permissive referendum.

3. Update on electrical work/back-up generator in Town Hall

Ron Maggs, Highway Superintendent reported that the work is on schedule and should be completed in approximately 30-days.

4. Update on back-up generator for water pump station #1

Ron Maggs, Highway Superintendent reported that this project is completed.

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

Supervisor Nellis opened the Public Hearing at 8:00 P.M.

**8:00 P.M.
Public Hearing
Proposed Local Law No. 2-2013
Revision to Town Code on Animal Kennels**

Pursuant to a resolution of the Town Board of the Town of Eden, New York, **NOTICE IS HEREBY GIVEN** of the following **PUBLIC HEARING** to be held by the Eden Town Board in the Eden Town Hall, 2795 East Church Street, Eden, New York on the 14th day of August, 2013:

At 8:00 P.M. Local Time, for the purpose of considering Proposed Local Law No. 2-2013 – an amendment to Chapter 225 of the Code of the Town of Eden – amending Section 225-32 (E), being the “Supplemental Use Regulations” of the Zoning Code of the Town of Eden, to provide for regulation of commercial animal kennels.

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

William Trask, Town Attorney explained that the Proposed Local Law was to broaden the definition, to include dogs and cats.

Comments:

There were none.

All persons desiring to be heard, having been heard, Supervisor Nellis closed the public hearing at 8:05 P.M.

MOTION was made by Councilman Krycia to close the public hearing and open the Regular Meeting of the Eden Town Board; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

5. Correspondence from State DOT denying request to lower speed limit on East Eden Road

Supervisor Nellis read the following correspondence from Thomas Messana, P.E., Regional Traffic Engineer:

“As a follow-up to our May 22, 2013 letter, we have completed our traffic engineering investigation related to your May 16, 2013 request for a reduced speed limit on East Eden Road in the Town of Eden.

The need for a reduced speed limit is based on a thorough evaluation of many factors, including roadway characteristics, roadside development, and a statistical analysis of prevailing speeds as determined by radar checks. The majority of motorists drive at a speed, which they perceive to be reasonable and prudent for existing conditions. Experience has shown that if there is no apparent reason for driving at a reduced speed, the posting of signs with an arbitrarily lower speed limit does not result in voluntary compliance by the majority of drivers. Thus, the lower speed limit results in larger speed differentials, which can make the road less safe.

Generally, the 85th Percentile Speed and the 10-Mile Pace are the predominant factors in determining the appropriate speed limit. The 85th Percentile Speed is that speed at or below which 85 percent of all vehicles travel. The 10-Mile Pace is that ten-mile per hour speed interval that includes the greatest number of vehicles.

In the case of East Eden Road between North Boston Road to the Hamburg Town line, the 85th Percentile Speed was found to be 46 MPH. The 10-Mile Pace was 38-47 MPH with 84 percent of the traffic within the pace. Considering the data we have obtained for this area, we have determined that we will not reduce the existing 45 MPH speed limit at this time.”

6. Resolution expressing congratulations to Corn Festival on outstanding “50th Anniversary” event

Supervisor Nellis read the following resolution:

**RESOLUTION
CONGRATULATIONS ON A JOB WELL DONE
TO
CORN FESTIVAL COMMITTEE AND ALL VOLUNTEERS**

WHEREAS, this year marked the 50th Anniversary of the Eden Corn Festival; and

WHEREAS, the Festival continues to be a source of pride and accomplishment to the residents of Eden; and

WHEREAS, for these 50 years the Eden Corn Festival Committee, while its volunteer members have changed over time, continues to be committed to making this community event an annual success; and

WHEREAS, the secret to this success has included all the various community organizations and individuals who annually volunteer and contribute to the success of this town event; and

WHEREAS, this year's event has been among the best ever of the 50 annual Corn Festivals held.

NOW, BE IT RESOLVED that the Eden Town Board join with the residents of Eden in congratulating the Eden Corn Festival Committee on an outstanding event in 2013; and

BE IT FURTHER RESOLVED that the Eden Town Board extends congratulations to the various community organizations and individuals that have helped make it happen.

FINALLY, we extend to all participants our congratulations on a "job well done" and express our thanks to all who have patronized the festival this year.

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. Update on Schoolview Drive water project

Mark Cavacoli, Town Engineer reported that the water project on Schoolview Drive is now completed and the water is flowing. Many thanks were given, especially to E & R Construction, working 10-12 hours per day and Chris Ameko, CRA, the project manager.

8. Notice of road closure – North Boston Road

Supervisor Nellis read correspondence from John C. Loffredo, P.E., Commissioner of Public Works, County of Erie, regarding a notice of highway closure:

"That portion of North Boston Road (CR 480) in the Towns of Boston/Eden will be closed between Taylor Road and East Eden Road (approximately 2 miles) beginning Monday, August 12, through Friday, August 16, 2013, for the purpose of cross culvert replacement beneath the road. Erie County Highways (Hamburg Maintenance District) will be completing the work.

9. Recreation Board – recommendation for maintenance assistance through October

Supervisor Nellis read correspondence from Susan Brass, Recreation Director, regarding the approval of summer/fall maintenance assistance to mow and water plants.

The Recreation Board is recommending the following:

Justin Lilga to assist maintenance Supervisor Scot Christiansen mowing and watering town plans as needed through October at \$8.00 per hour.

MOTION was made by Councilwoman Pew to approve Justin Lilga to assist Scot Christiansen with mowing and watering town plants as needed through October at \$8.00

per hour; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

10. Declare 1996 New Holland Ford Mount Mower as surplus equipment

Supervisor Nellis read correspondence from Susan Brass, Recreation Director, regarding the sale of surplus equipment.

The Eden Recreation Advisory Board is recommending that the following item(s) be declared “surplus”:

1996 Ford New Holland CM274 Front Mount Mower

MOTION was made by Councilman McLaughlin to declare the 1996 Ford New Holland CM274 Front Mount Mower surplus equipment as recommended by the Eden Recreation Advisory Board; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

11. Resolution – Regional Farm Museum Visitor/Exhibition Building

Supervisor Nellis read the following resolution:

**RESOLUTION
REGIONAL FARM MUSEUM
VISITOR/EXHIBITION BUILDING**

WHEREAS, the Eden Regional Farm Museum is seeking funding to build a new building on site including a visitors center operated by the South Towns Community Enhancement Coalition and Conference/Exhibition space; and

WHEREAS, the Southtowns Community Enhancement Coalition has indicated its willingness to operate the Visitor Center as part of its plan to develop and “Agriculture Trail” in the Southtowns as a place to visit by tourists when in our area; and

WHEREAS, the Town of Eden is the location of the building, therefore it stands to host tourists coming to the “Visitors Center” and hopefully stopping at local businesses to eat and to purchase items.

NOW, THEREFORE, be it resolved that the Eden Town Board strongly supports this request by the Eden Regional Farm Museum to submit through the State consolidated Funding process, the Rural Area Revitalization program and the New York State Office of Parks, Recreation and Historic Preservation and application as part of the 2013 Funding Round.

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

12. Appointment – Police Department – Dispatcher

Supervisor Nellis read correspondence from Michael Felschow regarding the appointment of a part-time dispatcher.

“Please appoint Derek Filipiak as a part-time dispatcher. Derek is a member of the Eden EMS Squad and has been training for the dispatch position on his own time.”

MOTION was made by Councilwoman Pew to appoint Derek Filipiak, part-time dispatcher; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

13. Action on Public Hearing regarding Proposed Local Law No. 2-2013

William Trask, Town Attorney stated that the following actions must be taken by the Town Board in regards to Proposed Local Law No. 2-2013:

1. Supervisor Nellis offered the following motion:

MOTION was made by Supervisor Nellis to declare that a Negative Declaration has been completed and filed; seconded by Councilman Ventry; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

2. Adopt Proposed Local Law No. 2-2013

MOTION was made by Supervisor Nellis to adopt Proposed Local Law No. 2-2013, which will amend Section 225-32 of the Eden Zoning Code “Supplemental Use Regulations to provide for supplemental regulations of “Commercial Animal Kennels”, after the Public Hearing at 8:00 p.m. with no objections; seconded by Councilman Krycia; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

3. Refer to Planning Board

MOTION was made by Councilwoman Pew to refer the Site Plan approval to the Eden Planning for their recommendation to the Eden Town Board for their consideration; seconded by Councilman McLaughlin; All “Ayes”; Opposed? – None; Abstain? – None; Motion carried.

Supervisor’s Report:

- Supervisor Nellis will be hosting the Association of Erie County Governments at the Legion on Thursday, August 22, 2013.
- September is National Preparedness Month with a Public Information Forum on Wednesday, September 13, 2013 from 6:00 – 8:00 p.m. at the Erie County Department of Emergency Services Training and Operations Center Auditorium in Cheektowaga, New York.

Hearing of Visitors:

Peter Reszka – regarding obstructions in the right-of-way.

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 8:35 P.M.

Executive Session:

Supervisor Nellis adjourned the Executive Session of the Eden Town Board Meeting at 10:30 P.M.

Respectfully submitted by,

Mary Jo Hultquist
Town Clerk