

A regular meeting of the Town Board of the Town of Hamburg, County of Erie and State of New York was held at the Town Hall, S-6100 South Park Avenue, Hamburg, New York on the 23rd day of February, 2009.

TOWN BOARD MEMBERS

PRESENT:

Steven J. Walters	Supervisor
Thomas M. Best, Sr	Councilman
Joan A. Kesner	Councilwoman
Kevin Smardz	Councilman

ABSENT:

Thomas Quatroche, Jr.	Councilman
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OTHERS PRESENT: Catherine A. Rybczynski, Town Clerk; Mary Dosch, Sr. Account Clerk; Robert E. Hutchison, Jr., Town Assessor; Ken Farrell, Town Attorney; Tim Regan, Community Development Assistant; Sarah DesJardins, Planning Consultant Assistant; Gerard Kapsiak, Town Engineer; Martin Denecke, Director of Recreation; Carmen Kesner, Chief of Police; Kurt Allen, Supervising Code Enforcement Officer

Pledge of Allegiance was recited.

Information on fire exits was provided.

7:00 p.m. Public Hearing

Legal Notice
Town of Hamburg
Notice of Hearing Proposed Local Law #2, 2009

PLEASE TAKE NOTICE that there has been presented to the Town Board of the Town of Hamburg on February 9, 2009, pursuant to the Municipal Home Rule Law, a proposed local law to be known as proposed local law #2, 2009; this local law provides for the adoption of a new chapter to the Hamburg Town Code that will set rules, and regulations governing the creation, maintenance, and screening of junkyards. The proposed local law reads as follows:

Section I. Purpose

The Town of Hamburg desires to set fair and comprehensive rules and regulations governing the creation, maintenance, and screening of junkyards. The purpose of this law is, through the regulation of junkyards, to promote a clean, wholesome, and attractive environment; protect the community from potential hazards to property and persons, protect water resources; preserve the aesthetic qualities of the Town; prevent depreciation of the property in which a junkyard is located and the property of other persons in the neighborhood and the community; and to further the goals of the Comprehensive Plan. To this end, new junkyards will not be allowed as an approved use within any zoning district.

Junkyards in existence prior to this ordinance being adopted shall be considered “grandfathered” and shall be allowed to continue, unless they are found to constitute a health or safety nuisance, in which case the owner(s) shall have six months to correct the nuisance or close the facility. This grandfather clause does not apply to any existing illegally established junkyard, or any junkyard located in a residential zoning district. To continue as a grandfathered use, existing junkyards will be required to obtain a yearly renewable Special Use Permit from the Town and fully comply with Section IV Regulations - Established Junkyards. If a facility ceases operation for more than a 6 month calendar period, the Special Use Permit will expire. Ceasing the operation of an existing junkyard for more than a 1 year period will result in ineligibility to reapply for a permit.

Section II. Definitions

Junkyard - means an establishment, location or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard or salvage yard, and the term shall include garbage dump and sanitary fields. The term “junkyard” shall include any salvage yard, scrap yard, or related use, including any use involving the storage or disassembly of wrecked or non functioning automobiles, trucks, or other vehicles; storage, baling or otherwise dealing in scrap metal, commercial/residential appliances, used plumbing fixtures and used brick, wood, or other building materials. Any person or entity that maintains, keeps, stores, or owns five or more junked motor vehicles or when 600 square feet or

more of junk materials are kept or stored at any given place or on any property. Such uses shall be considered junkyards whether or not all or part of such operations are conducted in conjunction with, addition to, or accessory to, other uses of the premises. Materials enclosed in closed buildings, solid waste containers or rolling stock are excluded.

Junked Motor Vehicle – any motor vehicle, or used parts or waste materials from motor vehicles which, taken together, equal in bulk one or more such vehicle, which is:

- unlicensed or unregistered; or
- abandoned, wrecked, stored, discarded, dismantled; or
- not in condition for legal use upon the public highways.

The fact that a motor vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such motor vehicle is not in condition for legal use upon the highways.

With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle unless refuted by verifiable and credible proof.

Antique Motor Vehicle – a motor vehicle, but not a reproduction thereof, manufactured more than twenty-five years prior to the current year, which has been maintained in or restored to, or will be maintained in or restored to, a condition which is substantially in conformance with the manufacturer's specifications.

Classic Motor Vehicle – a motor vehicle, but not a reproduction thereof, manufactured more than ten years prior to the current year and which because of discontinued production and limited availability, is considered to be a model or make of significant value to collectors or exhibitors and which has been maintained in or restored to a condition which is substantially in conformity with the manufacturer's specifications and appearance.

Section III. Exclusions

The following conditions are hereby excluded from the definition of a junkyard:

- (a) Unlicensed vehicles in operating condition stored by or for the owner while the owner is (a) a full-time student of the immediate family attending a school, college, or university; or (b) a member of the United States Armed Forces.
- (b) Seasonal vehicles or machinery during their off-season if kept in a location not visible from any road, street or highway, when practicable; otherwise a seasonal use permit must be applied for and received.
- (c) Farm machinery, including tractors, where such machinery is actively used. Farm machinery kept for parts shall be kept in a location not visible from any road, street or highway.

- (d) An antique or classic motor vehicle which is being restored under the conditions of a restoration permit.
- (e) Contractor's Storage Yard: An area used for the storage of equipment and/or materials used for providing construction-related contracting services, including but not limited to flooring, heating, plumbing, roofing, landscaping and excavation. These storage yards shall not include inoperable or wrecked motor vehicles remaining on the premises for more than forty-eight (48) hours. Storage Yards containing such vehicles shall be considered an outside salvage or reclamation use and subject to violation, unless said vehicle has a valid state registration, current safety inspection certificate and documentary records of pending repairs or other disposition.

Section IV. Regulations

All junkyards which are modified or expanded after the effective date of this ordinance and that have been issued a current valid SUP to operate or maintain a junkyard, as provided in this article, shall meet the following standards:

- (a) Be situated on one contiguous parcel that is undivided by any public road right-of-way.
- (b) Have a minimum setback to the fence from front property lines, excluding a road right-of-way, of at least 40 feet, and from the side and rear property lines, excluding a road right-of-way, of at least 10 feet.
- (c) Not be located closer than 500 feet to either a preexisting residence, church, school, day care center, nursing home, skilled health care facility, hospital, public buildings, or public recreation facilities. If this cannot be achieved for an existing facility, the Town may require mitigations to minimize the impacts to these uses.
- (d) Not store "materials" higher than 15 feet in height in the first 100 feet from a property line. The height allowance can be raised an additional 10 feet for each additional 100 feet that the materials are from a property line. For example, a pile of materials can be 25 feet in height if located 200 feet from and property line.
- (e) Be screened as provided herein, so as to not be visible from any residence (except a residence used in conjunction with the junkyard) or from the main-traveled way of any public road, at any season of the year, and
- (f) At a minimum, the junkyard shall be entirely surrounded by an opaque fence (including gates) at least eight feet in height, or by either a woven or welded wire (14 gauge minimum) or chain link fence a minimum of six feet in height (installed with opaque screening material) and with vegetation (excluding wild growth) that provides a continuous all-seasons opaque screen at least eight feet in height within five years of planting or setting such vegetation. The fence shall remain in good repair. The fence and vegetation shall surround the minimum area necessary for the junkyard to not be visible. Vegetation not less than four feet in height at the time of planting shall be planted on the outbound side of the fence, contiguous to, and not more than twelve feet from the fence. Vegetation that serves as screening shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow, without gaps or open spaces, will exist to a height

of at least eight feet along the length of the fence surrounding the junkyard. The vegetation shall be maintained as a continuous, unbroken hedgerow for so long as the property is used as a junkyard. Existing vegetation may be approved if it adequately meets the purposes of this article.

- (g) If a fence is utilized: inside, adjacent to and continuous with the fence or enclosure, on a strip of land at least ten feet in width shall be kept free of all dry grass, junk, plant growth, or other combustible material so as to provide a fire lane or break around the entire area where business activity is conducted.
- (h) All operations, equipment, junk and/or inoperable motor vehicles shall be kept within the confines of the fence at all times unless in motion by transport to or from the site.
- (i) All junkyards shall be maintained to protect the public from health nuisances and safety hazards.
- (j) Drainage from the site shall be properly managed as to not adversely impact downstream properties.

All junkyards existing which wish to expand, change , or modify in any way as to number of cars, appliances, amount of junk materials, or area used as a junkyard, shall be subject to all requirements of this chapter, and approved in writing by the Town Planning Board.

Established Junkyards

For the purpose of this local law, junkyards which on the effective date of this ordinance were legally operated and maintained under all applicable state, federal and local laws and ordinances, may continue in existence, unchanged in character and size. Within 90 days from the passage of this local law, however, the owner shall furnish the Planning Board the information which is required for a Special Use Permit (SUP) application, together with the permit fee, and the Planning Board shall issue a permit valid for one year, at which time the owner can apply for a renewal permit. The purpose of the yearly permit renewal, is to ensure that the facility is being operated in conformance with all required standards. It is also the purpose of this renewal process to bring existing facilities into conformance with the additional required standards in this local law. For junkyards which are non-conforming, at the time of adoption of this ordinance, it is the intent of the Town to bring these facilities into conformance with these regulations over a five (5) year period. Each year, the applicant will be required to show progress towards this requirement, otherwise a renewal permit will not be issued.

In the case of any pre-existing junkyard which has been grandfathered but is found to be a health or safety nuisance, Town of Hamburg reserves the right to enforce all health, safety, and environmental laws, within six (6) months of the effective date of this article or from the time the health, safety hazard, or public nuisance is determined.

Section V. Permit Applications

Existing Junkyards as defined in this section will be allowed by Special Use Permit (SUP). These junkyard Special Use Permits will be reviewed and granted by the Planning Board. All applicable regulations, requirements and procedures must be met as laid out in Article XLVI, Special Use Permits of the Hamburg Code. In addition to the requirements listed in Section 280-313 of the Special Use Permit Code, the application shall include information on the following: material storage types, location and heights; activity areas (what is done and where); and all existing permit and approval information concerning the site.

Section VI. General Provisions

Any junkyard that remains unregistered for a period of more than six months shall be deemed to be abandoned and void from the ability to apply for a SUP.

Section VII. Enforcement/Penalties

Should the enforcement officer find that an alleged junkyard exists without the necessary permit, the enforcement officer is hereby authorized pursuant to Criminal Procedure Law Section 150.20(3) to issue an appearance ticket to any person whom the enforcement officer has reason to believe has violated this law, and shall cause such person to appear before the Town Justice.

Any person who shall violate any of the provisions of this law shall be guilty of a violation and subject to the following: (1) a fine not to exceed \$350.00 or imprisonment for a period not to exceed fifteen days, or both; or (2) a penalty of \$350.00 to be recovered by the municipality in a civil action.

Every such person shall be deemed guilty of a separate violation for each week such violation, disturbance, omission, neglect or refusal shall continue, without the necessity of issuing any additional appearance ticket or notice of continuing violation.

The Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this law.

Section VIII. Severability

If any clause, sentence, paragraph, section or article of this law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered.

This local law shall become effective upon the date it is filed in the Office of the New York State Secretary of State.

THEREFORE, pursuant to the statutes and the provisions of the Municipal Home Rule Law, the Town Board of the Town of Hamburg will hold a public hearing on the aforesaid law, at the Hamburg Town Hall, 6100 South Park Avenue, Hamburg, New York, at 7:00 p.m. on the 23rd day of February, 2009, at which time all persons interested may be heard.

Dated: February 9, 2009

Catherine Rybczynski
Town Clerk
Town of Hamburg

Catherine A. Rybczynski, Town Clerk, notes there was no correspondence received.

Joe Killian questions if this means there will not be any new junkyards permitted in the Town of Hamburg.

Supervisor Walters responds that this is the hope.

Kurt Allen notes that Mr. Calkins is in attendance and would like to meet with him with regard to how this will effect him.

Ford Beckwith questions one of the stipulations. He questions if he and his son get a car and put it in the garage or under a tarp and work on it, would that be excluded from this.

Kurt Allen responds that this would covered under the provisions of the junk vehicle law.

Ford Beckwith asks the Board to have something put into the law that allows for atleast one vehicle to be kept in a persons driveway under a cover to use as a project.

Len Kowalski questions change in ownership and if it sells will it always be a junk yard

Supervisor Walters notes that there are some rules that govern that.

Mr. Allen responds that it would probably fall under the continuation of a non permitted use.

Joe Killian notes the classic motor vehicle section and the permit needed.

Kurt Allen notes there really isn't a restoration permit this needs to be addressed to make it consistent with the junk vehicle law.

Ford Beckwith notes he did not see anything where a car was in an accident waiting for the insurance company's estimate.

Ken Farrell notes if you look at it closely it applies to vehicle that are not registered properly or properly licensed. If your car was in an accident it was probably insured and registered properly.

1.

On a motion of Supervisor Walters, seconded by Councilman Best, the following resolution was ADOPTED
Ayes 4 Walters, Best, Kesner, Smardz
Noes 0

RESOLVED, that the Town Board motion to close the public hearing.

2.

On a motion of Councilman Smardz, seconded by Councilman Best, the following resolution was ADOPTED
Ayes 4 Walters, Best, Kesner, Smardz
Noes 0

WHEREAS, a public hearing was held on February 9, 2009, for discussion and public comment concerning adoption of proposed local law #1, 2009, and

WHEREAS, proposed local law #1, 2009, calls for the addition of a new chapter to the Town Code of the Town of Hamburg to outline training requirements for Planning Board and Zoning Board of Appeals Members to comply with New York State Town Law requirements,

NOW THEREFORE BE IT RESOLVED that the Hamburg Town Board adopt the proposed amendment to the Town Code of the Town of Hamburg to read as follows:

Training Requirements for Planning Board and Zoning Board Members

Town Law §267(7-a) and §271(7-a) requires all Zoning Board of Appeal and Planning Board members, and people appointed as alternates to such boards, to receive a minimum number of hours of training each year. Accordingly, in order to ensure compliance with these requirements, and to enhance the qualifications of Zoning Board of Appeal and Planning Board members, whose decisions can affect the function and appearance of communities well into the future, while impacting property interests important to individual residents, the following training requirements are established:

Section 1:

Each member of the Zoning Board of Appeals and Planning Board, including any alternates to either board, shall receive a minimum of four hours per year of training related to the areas of zoning, planning and/or land use. Members who are attorneys licensed in the State of New York are exempt from such requirements.

Section 2:

Acceptable forms of training shall include traditional classroom-style training. No self study training shall be accepted.

Section 3:

Acceptable providers of training shall include the regional planning counsel; the Erie County Planning office; a New York State agency; a New York State association, e.g. The Association of Towns, Conference of Mayors or New York Planning Federation; and an accredited college, or any other provider approved by the Town Board in advance of a member's attendance at such training.

Section 4:

Each member shall submit to the Town Attorney, certificates of completion or other documents verifying their compliance with these training requirements on or before January 1 of the year following the year in which the training was completed. Upon receipt, such verification shall be forwarded to the Town Board for review. If the Town Board, in its sole discretion, determines that any such training is not acceptable, it shall provide the member with notice, including a statement of the reason why such training is deemed unacceptable, and allow the member 120 days to attend additional training to replace the training hours disapproved by the Town Board.

Section 5:

Any member may submit information regarding a particular training course to the Town Board in advance of attending such course, with a request for approval of such training course. The Town Board shall indicate its approval or rejection of such training course in writing, to the member within fifteen (15) days of receipt of the member's request.

Section 6:

Training received by a member in excess of four (4) hours in any one (1) year may be carried over into succeeding years, up to a maximum of four (4) hours carried over, upon the approval of the Town Board

Section 7:

Any member who fails to meet the minimum training requirements set forth in both the New York State Town Law and herein will not be eligible for reappointment to their respective board.

Section 8:

A member failing to meet the minimum training requirements set forth in both the New York State Town Law and herein may be removed prior to the expiration of their term, upon prior notice and the opportunity for a hearing. The member shall notify the Town Board, in writing, within ten (10) days of receipt of the notice of removal that he/she requests a hearing. The Town Board shall schedule a hearing regarding such removal within twenty (20) days of receipt of the member's request; and the Town Board shall forward its decision in writing to the member within ten (10) days from the date the hearing was completed.

Section 9:

No decision of a Zoning Board of Appeals or Planning Board shall be voided or declared invalid because of a failure of a member or members to comply with the training requirements set forth herein.

Section 10:

While the training received by a member to meet the training requirements recited herein can also be utilized to meet the requirements set forth in the New York State Town Law, members are not excused from complying with the requirements set forth in the New York State Town Law, if such requirements are greater than those set forth herein.

Section 11:

This law shall take effect immediately.

3.

On a motion of Supervisor Walters, seconded by Councilman Best, the following resolution was

ADOPTED	Ayes 4	Walters, Best, Kesner, Smardz
	Noes 0	

WHEREAS, Joseph Holobicky (Claimant) was involved in a motor vehicle accident on January 3, 2008, involving a Town of Hamburg Senior Services van, and

6.

On a motion of Supervisor Walters, seconded by Councilman Best, the following resolution was ADOPTED Ayes 4 Walters, Best, Kesner, Smardz
Noes 0

RESOLVED, that the Town Board approve the recommendation of the Chief of Police in promoting GREGORY G. WICKETT to the vacant position of POLICE CAPTAIN. Mr. Wickett is currently on the Civil Service List for Captain, established March 14, 2008, Exam #071617. Salary is \$44.49 per hour. Appointment effective March 1, 2009.

Supervisor Walters welcomes Mr. Wickett to his new position as Captain

7.

On a motion of Supervisor Walters, seconded by Councilwoman Kesner, the following resolution was ADOPTED Ayes 4 Walters, Best, Kesner, Smardz
Noes 0

RESOLVED, that the Town Board approve the termination of one (1) in the Public Safety Department as follows:

- | | | | |
|---------------------|-------------------------|---------|-----------|
| 1. Springer, Ronald | Public Safety Disp. P/T | 2/12/09 | Terminate |
|---------------------|-------------------------|---------|-----------|

Supervisor Walters notes that this gentleman had received and accepted a full time position at the Veteran’s Administration Hospital.

8.

On a motion of Supervisor Walters, seconded by Councilman Smardz, the following resolution was ADOPTED Ayes 4 Walters, Best, Kesner, Smardz
Noes 0

RESOLVED, that the Town Board approve the termination of two (2) in the Recreation Department as follows:

- | | | | |
|--------------------|------------|---------|-----------|
| 1. Felice, Matthew | A7180(215) | 2/25/09 | Terminate |
| 2. Roward, Patrick | A7180(215) | 2/13/09 | Terminate |

THEREFORE BE IT RESOLVED, that the Town Board hereby accepts this contract as complete, and approves the release of final payment. The total amount paid under this contract is \$351,269.26, which is \$52,135.74 less than the originally awarded contract amount of Visone Construction, Inc., the contractor for this project.

12.

On a motion of Supervisor Walters, seconded by Councilman Best, the following resolution was
ADOPTED Ayes 4 Walters, Best, Kesner, Smardz
 Noes 0

WHEREAS, Nussbaumer & Clarke, Inc. was previously retained by the Town of Hamburg to provide engineering services associated with a Town Waterline Replacement Project to be performed in various locations within the Town water system which the Erie County Water Authority (ECWA) has identified as being in need of replacement; and

WHEREAS, one of the locations included in the project involves the replacement of the existing 12" diameter waterline which is suspended along the east face of the South Park Avenue bridge over the New York State Thruway; and

WHEREAS, ECWA initially requested that the replacement waterline be installed in a casing pipe to be bored beneath the Thruway. However, at the request of the Town Engineer, Nussbaumer & Clarke recently performed an evaluation to compare the engineering and construction costs of this alternative to replacing the waterline in the same location as the existing waterline suspended along the bridge; and

WHEREAS, the cost analysis determined that the alternative suspending the replacement waterline along the bridge will result in a total estimated cost savings of \$102,800, and ECWA and the New York State Thruway Authority have informed the Town that they are agreeable with this alternative; and

WHEREAS, Nussbaumer & Clarke has provided a proposal for providing the additional engineering services associated with this alternative, which requests an increase in their contract fee not to exceed \$47,200; and

WHEREAS, these additional costs have been reviewed by the Town Engineer and determined to be reasonable and acceptable for the services to be provided,

THEREFORE BE IT RESOLVED, that the contract with Nussbaumer & Clarke, Inc. is amended to include these additional services and fees, and that the Supervisor is authorized to sign their January 9, 2009 proposal letter/agreement in this regard. Funding for this is available from Town water district funds which have previously been budgeted and approved by the Town Board for

WHEREAS, the Town of Hamburg previously published a notice of Request for Proposals for Professional Design, Construction and Sports Management Services for the Nike Base Sports Complex, which were due to be submitted by October 20, 2008, at which time any proposal(s) were to be opened, and

WHEREAS, Leaping Sports Facility Management, LLC (Leaping) submitted the only proposal in response to the above-referenced notice, and

WHEREAS, Leaping proposes to design, construct and manage certain improvements to the Nike Base Sports Complex, including but not limited to a second ice rink, a multi-purpose, multi-sport field house with turf field, locker rooms, restaurant and banquet room, etc. pursuant to a long term, non exclusive lease management agreement with the Town of Hamburg,

WHEREAS, the aforementioned agreement will provide Leaping the right to design, construct and manage the aforementioned improvements at the Nike Base Sports Complex, whereby Leaping shall pay the expenses of such operations, and retain the revenues from such operations, with a percentage of such revenues paid to the Town, in the event such revenues exceed a predetermined amount, and

WHEREAS, the involvement of Leaping in the use and management of public lands at the Nike Base, specifically dedicated for recreational purposes, and the use and management of improvements funded under the Outdoor Recreation Development Bond Act, constitutes an alienation of such public lands and improvements, such project requires approval of the New York State Legislature, and

WHEREAS, pursuant to Town Law, Section 94, the Town Board upon its own motion, may cause to be submitted for approval of electors any act or resolution of such Town Board against which a petition for referendum could be filed,

BE IT RESOLVED, pursuant to Town Law, Section 94 and 91, that a proposition for approval of Leaping's proposal shall be submitted at a Special Town Election to be held between 60 and 75 days after the date of this resolution, such proposal to be subject to the following conditions:

1. Passage of appropriate legislation by the New York State Legislature to alienate certain lands and improvements at the Nike Base for the purpose of this project; and
2. Negotiation and execution of a lease management agreement between the Town of Hamburg and Leaping meeting all the requirements established by the Town of Hamburg for said project;

BE IT FURTHER RESOLVED, a vote of a majority of qualified electors of the Town voting on such proposition is required to pass this referendum.

On a motion of Supervisor Walters, seconded by Councilman Best, the following resolution was
ADOPTED Ayes 4 Walters, Best, Kesner, Smardz
 Noes 0

WHEREAS, the Town Board of the Town of Hamburg is considering adoption of a Local Law amending Chapter 280, Section 280-282 (G) of the Zoning Law of the Hamburg Town Code; and,

WHEREAS, the Town Board pursuant to Part 617.6 NYCRR Article 8 of the environmental Conservation Law (State Environmental Quality Review [SEQR]) conducted an environmental review of these proposed amendment; and

WHEREAS, the Town Board held a public hearing regarding the adoption of these proposed amendments on Monday, December 8, 2008; and

WHEREAS, the Town Board reviewed comments and considered the impacts of adopting these proposed amendments, pursuant to Part 617.7 NYCRR Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]).

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Hamburg has determined that the adoption of the proposed amendments to Section 280-282 (G) will not have a significant impact on the environment; and

BE IT FURTHER RESOLVED, that the Town Board issues the attached Determination of Significance for a Negative Declaration and, therefore, an Environmental Impact Statement (EIS) will not be required.

23.

On a motion of Supervisor Walters, seconded by Councilman Best, the following resolution was
ADOPTED Ayes 4 Walters, Best, Kesner, Smardz
 Noes 0

WHEREAS, the Town of Hamburg has previously adopted its Zoning Law into the Town Code that creates various zoning districts that establish allowable uses and regulate structures within the Town of Hamburg to promote the health, safety, and welfare of the public; and,

WHEREAS, the Town Board of the Town of Hamburg has determined that the current regulation in the Zoning Law concerning the minimum distance between dwelling units is inadequate, as it does not provide credit for the installation of fire protection systems; and,

WHEREAS, the Hamburg Code Review Committee has recommended the amendment of the Town of Hamburg Zoning Code, Section 280-282 (G); and

WHEREAS, the Town Board held a public hearing regarding the amendment of the Town of Hamburg Zoning Code, Section 280-282 (G) on Monday, December 8, 2008; and,

WHEREAS, the Town Board has reviewed comments and considered the impact of adopting this proposed amendment to the Town of Hamburg Zoning Code, pursuant to Part 617.7 NYCRR Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]), and has determined that the adoption of the Local Law will not have a significant impact on the environment and issued a Negative Declaration.

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Hamburg hereby amends Section 280-282 (G) of the Zoning Law of the Hamburg Town Code to read as follows:

“Minimum distance between dwelling units: 15 feet. This separation distance can be reduced to 12 feet with the additional fire safety provision of an approved sprinkler system.”

24.

On a motion of Councilman Smardz, seconded by Councilman Best, the following resolution was
ADOPTED Ayes 4 Walters, Best, Kesner, Smardz
 Noes 0

WHEREAS, the Town Board of the Town of Hamburg has considered adoption of a Local Law amending Article XXIV Section 280-161 Paragraph I (11) of the Zoning Law of the Hamburg Town Code; and,

WHEREAS, the Town Board pursuant to Part 617.6 NYCRR Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]) conducted an environmental review of the proposed amendment to Article XXIV Section 280-161 Paragraph I (11); and

WHEREAS, the Town Board held a public hearing regarding the adoption of the proposed amendment to Article XXIV Section 280-161 Paragraph I (11) on Monday, December 8, 2008; and

WHEREAS, the Town Board reviewed comments and considered the impacts of adopting the proposed amendment to Article XXIV Section 280-161 Paragraph I (11), pursuant to Part 617.7 NYCRR Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]).

Councilwoman Kesner notes this resolution is to correct some of the contradictions that arose in the original law. Both Ken Farrell, Town Attorney and Kurt Allen, Supervising Code Enforcement Officer agree that it meets their approval.

26.

On a motion of Supervisor Walters, seconded by Councilwoman Kesner, the following resolution

was ADOPTED Ayes 4 Walters, Best, Kesner, Smardz

 Noes 0

RESOLVED, that the Town Board authorize the Finance Department to transfer \$6,479.71 from T37 Trust and Agency Fund, to Operating Fund A 7140.303, Playground and Recreation Center improvements. Reimbursement for the Lakeshore Little League for upgrading the baseball diamonds.

27.

On a motion of Supervisor Walters, seconded by Councilman Best, the following resolution was

ADOPTED Ayes 4 Walters, Best, Kesner, Smardz

 Noes 0

RESOLVED, that the Town Board grant permission for Captain Gregory Wickett and Lieutenant Peter Dienes and Patrolman Timothy Crawford to attend "Creating a Culture of Character" conference, to be held at Hilbert College, March 17 & 18, 2009.

Cost of conference is \$100.00 each = **TOTAL-\$300.00**

Money is available in account B3120.492

28.

On a motion of Supervisor Walters, seconded by Councilman Best, the following resolution was ADOPTED Ayes 4 Walters, Best, Kesner, Smardz Noes 0

RESOLVED, that the Town Board approve the Audit of Cash Disbursements as follows:

TOWN BOARD FEBRUARY 23, 2009 AUDIT OF CASH DISBURSEMENTS

VOUCHER #'S

OPERATING FUND:

Table with 4 columns: BATCH #, Amount, and Voucher #S. Rows include batches 13 through 17 with amounts ranging from \$16.50 to \$955,408.99.

TOTAL OPERATING FUND DISBURSEMENTS: \$1,634,710.49

TRUST & AGENCY:

Table with 4 columns: BATCH #, Amount, and Voucher #S. Rows include batches 4 and 5 with amounts \$4,500.00 and \$14.82.

TOTAL TRUST & AGENCY DISBURSEMENTS: \$4,514.82

CAPITAL FUND DISBURSEMENTS:

Table with 4 columns: BATCH #, Amount, and Voucher #S. Rows include batches 9 through 11 with amounts \$327,639.10, \$63,571.32, and \$32,998.12.

TOTAL CAPITAL FUND DISBURSEMENTS: \$424,208.54

PAYROLL:

Table with 4 columns: PR #, Amount, and Voucher #S. Row includes PR # 4 with amount \$558,035.12.

TOTAL PAYROLL DISBURSEMENTS: \$558,035.12

PETTY CASH \$0.00

TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT: \$2,621,468.97

29.

On a motion of Supervisor Walters, with a unanimous second, the following resolution was

ADOPTED Ayes 4 Walters, Best, Kesner, Smardz
 Noes 0



Reports from the Board

Supervisor Walters notes that with there were a couple projects that through doing there was a net savings of over \$100,000 and with that commends Town Engineer, Gerard Kapsiak.

Gerard Kapsiak makes note that the D.O.T. is holding public information meeting on Wednesday at the Big Tree Fire Hall from 4:00 - 7:00 p.m. on the reconstruction of the Big Tree/South Park Ave intersection.

George Lee asks that if that is done maybe there would be money for the sidewalks.

Mr. Kapsiak notes that at looking at the preliminary drawings they are showing sidewalks are proposed.

Carmen Kesner notes that at the PBA Awards Dinner, Officer John Baker was honored.

George Lee adds that Blasdell elections are coming up.

Business from the floor:

Ferd Garcia questions if there will be a comprehensive break down on the ice rink as far as the revenue coming in, the obligations of each party and the total cost including the length of the bond, principal and interest.

Supervisor Walters responds that they are in the process of setting up some public meetings and the dates should be ready to be announced at the next Board meeting. They will try to make the public aware of what is going on.

Steve Strnad notes that this is the second year of the recession and questions if the Town Board would consider not taking their raise. Has a hiring freeze been talked about and is there any consideration for negotiating the union contract to lower taxes. Is there a need for three Town Attorneys and is there any other way to improve the efficiency of the Town Government.

Supervisor Walters responds that they are always trying to improve the efficiency of Town government and agrees that spending has to be reduced and taxes need to be lowered. Spending has been reduced over the last couple years and now we are at 2004 spending levels in the Town. The tax rate has been cut two years in a row. He notes that maybe the taxpayers group would like to gather a list of 20 questions or so for the Board to review. Several positions have been eliminated within the Town but in some circumstances that's not feasible. The Town Attorney is working on a report to present to the Town Board as well as the public.

Ken Farrell, Town Attorney, notes that the report is finished it expands upon the insurance review that was done last year and a number of objectives and goals that were set for themselves. He is happy to present that to the Town Board whenever they see fit.

Supervisor Walters asks the Town Attorney to have that presentation ready for the next board meeting on March 9th.

Ferd Garcia questions if the three attorneys feel they are earning all their money.

Ken Farrell responds that they absolutely do. He asks for patience and at the next meeting he thinks everyone will see visibly and graphically how they earn their money.

Joe Killian questions the gaming money and that it is earmarked and expressly used to pay down debt.

Supervisor Walters responds that the gaming money received and a requirement from the State that it be used for general fund purposes. The Board has decided to do is earmark that specifically to pay down debt. This year it looks like the State is going to take most of that money away from us.

Tom Best clarifies that the money is not from the Agricultural Society, that money is given by the State of New York.

Len Kowalski questions if the pay raises were warranted in the Boards eyes.

Supervisor Walters responds that the Town Board had not received a raise in 15 years. He was the only full time employee who had not received a raise in four years.

John Gorman questions if the ice rink is privatized would it allow positions within the Buildings and Grounds Department to be eliminated.

Supervisor Walters adds that there are several areas that the Building and Grounds Department has backed away from due to manpower limitations. The first step is going to be how to better utilize that manpower and begin to do some of the things that couldn't be done in the past like using contractors to do certain work that the employees could be doing if their time was freed up.

Joe Killian asks if the referendum is going to be either a yes or no vote.

Supervisor Walters responds it's going to be yes or no on the project and the project will have the details broken down in it for example who the company is, how the financing is going to operate, how the revenues are going to be split.

Joe Killian notes he has spoken to a lot of people and they see a use for another rink and the expanded facilities here including tournaments which do bring in a lot of money in revenue. The question comes with the management team that is to be put in place. A lot of people are for the rink but not quite sure about the management.

Randy Hoak questions if the alienation has been voted on yet.

Supervisor Walters responds that the alienation has not, the information was sent to the State and they said it didn't matter if the contract was signed first or the alienation was done first. They decided to do the alienation first, then the State said after second review they wanted the agreement

in place first. This process has to be done first before the State will even consider the alienation resolution.

Len Kowalski questions how many days before the vote will there be for the breakdown.

Supervisor Walters responds that hopefully there will be a couple meetings first.

30.

On a motion of Supervisor Walters, seconded by Councilman Best, the following resolution was

ADOPTED Ayes 4 Walters, Best, Kesner, Smardz
 Noes 0

RESOLVED, that the Town Board move to Executive Session on a legal matter at 8:08 p.m.

31.

On a motion of Supervisor Walters, seconded by Councilman Best, the following resolution was

ADOPTED Ayes 4 Walters, Best, Kesner, Smardz
 Noes 0

RESOLVED, that the Town Board adjourn Executive Session at 10:15 p.m.

Catherine A. Rybczynski, Town Clerk