

A regular Town Board meeting of the Town of Hamburg, County of Erie and State of New York was held at the Town Hall, 6100 South Park Avenue, Hamburg, New York on the 24th day of February 2014.

2.

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

ADOPTED	Ayes 3	Walters, Quinn, Potter-Juda
	Noes 0	

RESOLVED, that the Town Board adjourn Executive Session at 7:08 pm and move into the regular meeting.

ROLL CALL:	Steven J. Walters	Supervisor
	Michael Quinn, Jr.	Councilman
	Cheryl Potter-Juda	Councilwoman

ALSO PRESENT: Catherine A. Rybczynski, Town Clerk
Walter Rooth III, Town Attorney; Mary Dosch, Sr. Account Clerk; Gerard Kapsiak, Town Attorney; Michael Williams, Chief of Police; Marty Denecke, Director of Youth, Recreation and Senior Services; Tom Best, Sr., Highway Superintendent; Kurt Allen, Supervising Code Enforcement Officer; Sarah desJardins, Planning Consultant; Ted Casey, Traffic Safety Coordinator; Amy Ziegler, Deputy Supervisor

The Pledge of Allegiance was recited.

Information on location of Fire exits was provided.

3.

On a motion of Councilwoman Potter-Juda, seconded by Supervisor Walters, the following resolution was

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

RESOLVED, that the Town Board approve the minutes of the following meeting:

02/10/2014 Work Session
02/10/2014 Town Board Meeting

4.

On a motion of Supervisor Walters, seconded by Councilwoman Potter-Juda, the following resolution was

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

RESOLVED, that the Town Board approve the membership of the following into the Woodlawn Volunteer Fire company Inc.:

Evan Fierley
3840 South Park Ave., Apt. 2
Blasdell, N.Y. 14219

5.

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

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

RESOLVED, that the Town Board authorize Captain Trask to sign Police Department paperwork, i.e., payroll, vouchers, etc. in the absence of the Chief of Police.

6.

On a motion of Councilman Quinn, seconded by Councilwoman Potter-Juda, the following resolution was

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

RESOLVED, that the Town Board approve the out of town travel request of the Honorable Gerald P. Gorman to attend the Association of Towns meeting in New York City from February 15 to February 18, 2014. This meeting provides the required 12 hours of training at an approximate cost of \$1,000.00

7.

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

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

RESOLVED, that the Town Board authorize the Recreation Department to issue alcohol waivers for the following March 2014 Taylor Road rentals:

03/15/2014 03/22/2014 03/23/2014 03/30/2014

Councilwoman Potter-Juda raises concerns about the alcohol waivers and possible under aged drinking.

Martin Denecke, Director of Youth, Recreation and Senior Services, responds that applicants have to apply for a permit to use the building and homeowners insurance is required for any potential damage.

8.

On a motion of Councilwoman Potter-Juda, seconded by Supervisor Walters, the following resolution was

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

WHEREAS, at the Town of Hamburg Re-organization meeting, assignments were made authorizing the signing of purchase orders, Town Vouchers, etc. and

WHEREAS, for the Planning Board, the authorized person to sign purchase orders and vouchers is Councilwoman Potter Juda, but there was no one authorized in her absence or as a back-up, and

WHEREAS, there needs to be a back-up to help sign purchase orders and vouchers.

NOW THEREFORE BE IT RESOLVED that Kurt Allen is authorized to sign purchase orders and vouchers related to the Planning Board and Planning Department.

9.

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

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

RESOLVED, that the Town Board approve the termination and rehiring of personnel for the Youth, Recreation and Senior Services Department as follows:

1. Jedynak, Richard	Van Driver P/T (A6772)	02/14/2014	Terminate
2. Jedynak, Richard	Van Driver Seas. (A6772)	02/15/2014	\$10.19
3. Mumbach, John	Van Driver P/T (A6772)	02/24/2014	Terminate
4. Rostin, Janice	Rec. Attd. P/T (A6772)	02/24/2014	Terminate
5. Wiencek, Paul	Van Driver Seas. (A6772)	02/24/2014	Terminate
6. Wiencek, Paul	Van Driver P/T (A6772)	02/25/2014	\$9.75

10.

On a motion of Supervisor Walters, seconded by Councilwoman Potter-Juda, the following resolution was

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

BE IT RESOLVED, that Martin Denecke, Director of Recreation, Timothy Jerome, Recreation Supervisor and Marc Collins Recreation Supervisor be granted permission to attend the New York State Recreation and Parks Society Annual Conference and Business Exposition. The event is scheduled for March 23-25, 2014 in Saratoga. Related costs are broken down as noted:

3 Registrations	\$1,200
Room (2 nights)	\$ 390
Meals	\$ 180
Tolls	<u>\$ 30</u>
Total	\$1,800

Use of Recreation Department van is also requested.

11.

On a motion of Councilwoman Potter-Juda, seconded by Supervisor Walters, the following resolution was

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

WHEREAS, the Town Engineering Department has been working with CSX Transportation, Inc. (CSX) to have CSX install power off indicator lights at their Rogers Road and Cloverbank Road railroad crossings in connection with the Town of Hamburg's ongoing railroad quiet zone project at these locations. These lights are necessary as part of the Federal Railroad Administration requirements for a quiet zone to be established, in order to make approaching train crews aware in the event of a power failure affecting the operation of the signal equipment at the crossings; and

WHEREAS, CSX has prepared and sent the Town a Construction Agreement to be entered into for this purpose, under which CSX requires an advance payment in the amount of \$16,630 to cover their estimated costs for this work,

THEREFORE BE IT RESOLVED, that the Supervisor is authorized to sign the Construction Agreement with CSX, and that the \$16,630 advance payment to CSX is to be reimbursed in full by the Federal transportation funding that the Town has received for this project (PIN 5759.70).

12.

On a motion of Councilman Quinn, seconded by Councilwoman Potter-Juda, the following resolution was

ADOPTED	Ayes 2	Quinn, Potter-Juda
	Noes 1	Walters

WHEREAS, current State law does not compel any governmental entity that is party to a construction contract to require that contractors or subcontractors participate in apprenticeship training programs approved by the State Commissioner of Labor; and

WHEREAS, there is a long productive history of partnership between labor and management for the training of skilled craft workers in our State which began over fifty (50) years ago when the US Congress passed the Fitzgerald Act (29 USC Section 50) to encourage States to develop apprenticeship training programs; and

WHEREAS, the New York State Legislature adopted Article 23 of the NEW YORK LABOR LAW in 1961 to authorize the State Commissioner of Labor to develop standards for apprenticeship training and a process for certifying programs which meet said standards; and

WHEREAS, the promotion of apprenticeship training programs will expand the pool of skilled workers in the Town of Hamburg by providing many residents the means to earn a decent living thereby fostering the local and regional economies; and

NOW THEREFORE BE IT RESOLVED, that the Town of Hamburg hereby reinstates and modifies its policy to promote apprenticeship training as authorized by Section 816-b of the NEW YORK LABOR LAW; and

BE IT FURTHER RESOLVED, that “construction contract” shall mean any contract to which the Town of Hamburg shall be signatory which involves the construction, reconstruction, improvement, rehabilitation, installation, alteration, renovation demolition or otherwise providing for any building, facility, or physical structure of any kind with a value in excess of \$300,000; and

BE IT FURTHER RESOLVED, that “contractor or subcontractor” shall mean a contractor or subcontractor which directly employs labor under a construction contract for which an apprenticeship program has been approved by the New York State Commissioner of Labor in accordance with Article 23 of NEW YORK LABOR LAW; and

BE IT FURTHER RESOLVED, that the Town of Hamburg hereby requires any contractor or subcontractor , at the time of bidding on a construction contract with the Town of Hamburg, to submit appropriate documentation of having currently valid apprenticeship agreements, appropriate for the type and scope of work to be performed, which have been registered with and approved by the New York State Commissioner of Labor in accordance with Article 23 of the NEW YORK LABOR LAW, anything in Section 103 of the NEW YORK GENERAL MUNICIPAL LAW to the contrary notwithstanding; and

BE IT FURTHER RESOLVED, that this Resolution shall apply to construction contracts advertised for bids on or after the effective date; and

BE IT FURTHER RESOLVED, that if any clause, sentence, paragraph, subdivision, section of or part of this law or the application therefor to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership entity, or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Supervisor Walters comments that requiring an apprenticeship program has an adverse impact on the taxpayer. Many Contractors would be unable to bid on public works projects that come before the Town because they don't have a certified apprenticeship program. With the decrease in eligible contractors this will have the potential impact of increasing the cost. He is opposed to this.

Peter Reszka questions the fifth paragraph that the Town is re-affirming its policy.

Councilman Quinn comments that he wants to amend the resolution to say reinstate instead of re-affirm.

Larry Speiser questions if you reduce the people that are able to bid on the project doesn't that increase the cost of the Project?

Councilman Quinn responds not necessarily.

Mr. Speiser questions the cost of the Library project.

Supervisor Walters responds that it was 2.8 million dollars.

Mr. Speiser comments that he believes if you narrow the scope of bidders to just those with apprenticeship programs it would raise the cost of the project 10% to 15%. That would raise the cost of the Library Project by \$220,000 to \$300,000. He then suggests that they give a credit to companies with the apprenticeship program to try and even the field.

Brad Rybczynski responds that State Law prohibits the Town from doing that. It prohibits any grading or weighting of bids for public work. New York State passed a law that allows for this type of resolution that was passed today. It passed through both houses of the legislature and was signed by Governor Patacki. He then quotes the section of the law. He would hope that everyone present would want to have a safe, responsible, well-trained workforce. This would lower liability to the Town and there would be a decreased amount of accidents, incidents or death on the jobsite. You would also have contractors that have proved over and over again a commitment to the community and contractors that live in the community. He would like to see where a 10% to 15% increase has ever been documented on a project. This could possibly reduce the cost of the project.

Supervisor Walters questions, if it will reduce the cost of the project, why is this resolution required?

Mr. Rybczynski comments that the Governor and Legislature passed the Legislation enabling the Town to pass this resolution. He has heard people complain that they don't want any more restrictions or governmental restrictions on business, so the Legislature and Governor left this point to the localities.

Supervisor Walters comments that, with the Library Project, the low bidder did not have the apprenticeship program, which was not required at the time. The bidder that had the apprenticeship program was the fourth lowest bidder. They would have had to strike the first three lowest bidders to reach that bidder and that is his concern.

Mr. Rybczynski comments that is only one example. He has seen contractors with the apprenticeship program be the lowest bidder on projects daily. This is an effort by our community to show that they care about the people that are living in it. They care about their safety and well-being. There is a guarantee with the apprenticeship program that all the workers have gone through safety training and are well educated in their fields.

Don Wiess questions doesn't state law accomplish the same thing?

Supervisor Walters comments no but State Law does allow communities to adopt this type of provision. The State law does not mandate that they do this.

Don Wiess comments on out of state people coming in to work on the projects. Does this restrict the residency of bidders?

Mr. Rybczynski responds that bidders from out of state cannot get certified in the apprenticeship program for New York State.

Pat McAnaney comments that they are bidding a project for the expansion of Woodlawn Fire Company. Would they have to require the apprenticeship program?

Walt Rooth responds that looking at the resolution it would have to be a construction contract with the Town of Hamburg. This would be a construction contract with Woodlawn Fire Hall.

Dave Bellissimo questions if they are talking about all skilled workers including labor construction?

Councilman Quinn comments that the construction industry is one of the more dangerous industries out there. A lot of times you get contractors that send kids out into dangerous situations where they don't know what they are doing. With an apprenticeship program it is guaranteed that they are trained in safety, that they have a high level of craftsmanship to build the buildings and infrastructure that we as residents use. It may cost a little on the front end but on the back end you are saving. Look at the Thistle case in Amherst, there was an untrained construction worker and now the Town of Amherst has to pay out a judgment of \$19 million. If this person was trained this wouldn't have happened. He believes it is their duty to make sure that people who work on projects are trained. That is what this is all about.

Elizabeth Reszka questions if there will be first year apprentices on the job?

Councilman Quinn responds that there could be but he would have some training in basic safety standards and would be under the guidance of a Journeyman that would make sure that his laborer would not be placed in dangerous situations and would learn on the job.

Don Wiess comments that the Town collects taxes for the Fire Companies and the budgets are supposed to be supervised by the Town. He believes that the Town would be responsible for reviewing the contract for the expansion of the fire company because they are spending public funds, so it is not a separate entity. He feels the Town should be doing more to review the accounting of each fire company.

Highway Superintendent Best questions how this differs from the WICKS Law.

Supervisor Walters responds that they are two different provisions. He knows Mr. Best is very familiar with the WICKS Law but explains that with the apprenticeship program you are not an eligible bidder on public works projects that exceed \$300,000 in price if you do not have an apprenticeship program in place.

Patricia Burke questions don't the contractors have insurance for whatever contract they are doing work on. Would that not cover liability?

Supervisor Walters responds that they do require all contracts to carry appropriate insurance as determined by the Town Attorney and the Towns' insurance consultant.

Mr. Rybczynski responds that as an owner you are always liable. Regardless of any amount of insurance the contractor might have. He may be protected, but anything above and beyond his insurance limits; the Town would be liable for.

Ted Casey, Traffic Safety Coordinator, comments that the Town may be insulated from an insurance standpoint but if there was an incident or fatality the Town would be sued. Then when it came time for renewal there would be a renegotiation and, with that event having taken place, the premiums would go way up. So insuring that the Town contracts skilled laborers will save in the long run against million dollar lawsuits.

Joe Sacco questions if the Town has any option to exempt labor unions that have had charges filed against them from bidding on contracts.

Councilman Quinn responds that a few bad apples do not undermine a training program.

Larry Speiser questions if there have ever been any studies that prove one is safer than the other.

Councilman Quinn responds he doesn't have any studies available to refer to. However, the apprenticeship program he went through kept him safe in one of the most dangerous construction fields. He was thankful for the Journeyman that looked out for the apprentices and for the quality of craftsmanship that he learned. He made it clear when he ran for Office who he was and what he was about and this resolution wraps it up.

Supervisor Walters comments that he agrees with Councilman Quinn that you need to have well trained employees and a well trained workforce. However, he doesn't think they should be limiting who can bid projects because of the negative affect on the taxpayers.

Councilman Quinn disagrees that it negatively affects the taxpayers and believes this is an incentive for contractors to insure that their employees are properly trained and not exploited.

13.

On a motion of Supervisor Walters, seconded by Councilwoman Potter-Juda, the following resolution was

ADOPTED	Ayes	3	Walters, Quinn, Potter-Juda
	Noes	0	

RESOLVED, that the Town Board authorize The American Legion Auxiliary, Hamburg Post No. 527, to conduct their annual "Poppy" campaign during the month of May. The donations received are used for rehabilitation programs for the hospitalized and disabled veterans in this area, and aid for their families.

14.

On a motion of Councilman Quinn, seconded by Councilwoman Potter-Juda, the following resolution was

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

RESOLVED, that the Town Board accept the resignation of Personnel in the Buildings and Grounds Department as follows:

- 1. Stephen Mikac Superintendent of Buildings and Grounds 02/13/2014 Resigned

Steve Strnad speaks in favor of the resolution.

Don Wiess speaks in favor of the resolution.

15.

On a motion of Supervisor Walters, seconded by Councilwoman Potter-Juda, the following resolution was

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

RESOLVED, that the Town Board authorize the Veterans of Foreign Wars of the United States, Hamburg Township VFW Post No. 1419, to conduct their annual “Buddy” poppy campaign on Saturday, May 17th, Sunday May 18th, and Friday May 23rd.

16.

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

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

RESOLVED, that the Town Board approve the appointment of Karen R. Kaczmarski to complete the term of Martha Salzman of the Hamburg Public Library Board of Trustees, which expires December 31, 2018.

17.

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

ADOPTED Ayes 3 Walters, Quinn, Potter-Juda
 Noes 0

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

TOWN BOARD
AUDIT OF CASH DISBURSEMENTS February 24, 2014

		VOUCHER #'S	
OPERATING FUND:			
BATCH #23	\$22,932.45	67218-67248	
BATCH #24	\$70,531.22	67248	
BATCH #25	\$897,190.43	67249-67361	
BATCH #26	\$15.16	67362	
BATCH #27	\$254,983.88	67363-67366	
BATCH #28	\$74,532.62	67369-67410	
TOTAL OPERATING FUND DISBURSEMENTS:			\$1,320,185.76
TRUST & AGENCY:			
BATCH #3	\$35.39	67411	
TOTAL TRUST & AGENCY DISBURSEMENTS:			\$35.39
CAPITAL FUND DISBURSEMENTS:			
BATCH #5	\$2,776.51	67367-67368	
TOTAL CAPITAL FUND DISBURSEMENTS:			\$2,776.51
PAYROLL:			
PR#P/R 4	\$765,661.21		
TOTAL PAYROLL DISBURSEMENTS:			\$765,661.21
PETTY CASH			\$0.00
TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT:			\$2,088,658.87

18.

On a motion of Supervisor Walters, seconded by Councilwoman Potter-Juda, the following resolution was

ADOPTED	Ayes 3	Walters, Quinn, Potter-Juda
	Noes 0	

RESOLVED, that the Town Board approve the membership of the following into the Scranton Volunteer Fire Company, Inc.:

Michael Mosier
3888 Sowles Road
Hamburg, N.Y. 14075

Ryan Lotocki
3538 Heatherwood Dr.
Hamburg, N.Y. 14075

Reports from Town Board Members and Department Heads

Councilwoman Potter-Juda – no report

Councilman Quinn – no report

Supervisor Walters reports that the Town Board received notification that the Town will be receiving just under \$20,000 from Chase Bank in conjunction with them being our credit card provider. The Town gets a rebate on every purchase we make using the credit cards. In addition to that they started using the credit cards about 2 years ago in an effort to cut down on the amount of paperwork.

Gerard Kapsiak, Town Engineer, thanks the Town Board for approving the resolution on the agreement with CSX relative to the railroad quiet zone. It will help keep the project moving along so they can get it constructed and implemented later this spring.

Chief Williams reports that in the lobby of the Police Department they have a needle and prescription pill drop off box.

Business from the Floor

Mr. Marrara comments that last year the Safe Act was passed by Governor Cuomo and the Town was opposed to it. Now the Town is going after someone who had a sign on his fence opposing the Safe Act. He would like to know why?

Councilman Quinn comments that he had nothing to do with it. He questions Kurt Allen if he contacted him on this.

Mr. Allen responds no he did not contact him. There is a lot misinformation posted on facebook. This is a zoning infraction not a denial of a person's first amendment rights. He is allowed to have that sign, but not on a fence.

Councilman Quinn comments that he wants it to be known he is not after anyone for anything.

Councilwoman Potter-Juda asks the Town attorney to address this.

Walt Rooth responds that he spoke to Mr. Allen concerning this. The section of the law states that no images or language can be affixed or painted to the outward side of any fence or directed at neighboring properties for any reasons. He can have the sign on his lawn, but, he cannot have it on his fence.

Don Wiess comments you also cannot have a sign on the right of way it has to be on the actual property.

Supervisor Walters responds that the Town Board, by a vote of 3-0, did support the suspension and repeal of the Safe Act in August. What the present law says, with respect to signage, possibly needs to be revisited.

Larry Spieser questions if anyone else is being cited for this.

Mr. Allen comments that this is the only sign on a fence that they are aware of.

Don Wiess comments that he came before the Town Board last year to comment on fracking and he would like to inform the new Town Board on the subject. The Supreme Court decision has allowed municipalities to ban fracking and it has come recently to his attention that the City of Dunkirk is using salt from fracking waste. The Town of Hamburg is not. He feels the Town should look at banning fracking in light of the damage that has occurred in Pennsylvania and Ohio. There are cases in the upper Genesee river where they are putting fracking salt down and it is more radioactive than the normal salt and also has contaminates including arsenic and this is polluting the Genesee river. This has also happened in Virginia. He would like the Town Board to seriously look at the resolution on banning fracking and also the resolution concerning dealing with Asian Carp coming up the Mississippi river.

19.

On a motion of Supervisor Walters, seconded by Councilwoman Potter-Juda, the following resolution was

ADOPTED	Ayes 3	Walters, Quinn, Potter-Juda
	Noes 0	

RESOLVED, that the Town Board move into to Executive Session at 8:07 p.m. on a personnel matter not finished in the previous Executive Session.

20.

On a motion of Supervisor Walters, seconded by Councilwoman Potter-Juda, the following resolution was

ADOPTED	Ayes	3	Walters, Quinn, Potter-Juda
	Noes	0	

RESOLVED, that the Town Board adjourn at 9:40 p.m.

Catherine A. Rybczynski, R.M.C.
Town Clerk