

A regular Town Board Meeting 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 10th day of March 2008.

**TOWN BOARD MEMBERS
PRESENT**

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

ABSENT:

OTHERS PRESENT: Catherine A. Rybczynski, Town Clerk; Mary Dosch, Sr. Account Clerk; Andrew Reilly, Planning Consultant; Carmen Kesner, Chief of Police; John Farrell, Director of Senior Services; Martin Denecke, Director of Recreation; Gerard Kapsiak, Town Engineer; Kurt Allen, Supervising Code Enforcement Officer; James Connolly, Town Highway Superintendent; Timothy Ellis, Traffic Safety Coordinator.

Pledge of Allegiance was recited.

Information on fire exits was provided.

Supervisor Walters notes that the Town Board has a special presentation to do. He asks for the two Emergency Management co-coordinators to please come forward. The work that they have done and the help that they gave, the expertise they provided the Town was above and beyond what was normally expected from a private citizen. Bob Kryszak and representatives from the Newton Abbott Fire Company were called up to be presented the award in recognition of their service.

1.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

PRESENT:

Hon. Steven J. Walters, Supervisor

Thomas M. Best, Sr., Councilperson

Joan A. Kesner , Councilperson

Kevin Smardz, Councilperson

Thomas J. Quatroche, Jr., Councilperson

In the Matter

of the

Increase and Improvement of Facilities of the
Mount Vernon Sewer District, in the Town of Hamburg,
in the County of Erie, New York, pursuant to
Section 202-b of the Town Law

Offered by: Councilperson Smardz:

Seconded by: Councilperson Best:

WHEREAS, the Board of Commissioners of the Mount Vernon Sewer District (herein called the “District”) in the Town of Hamburg (herein called the “Town”), in the County of Erie, New York, by petition heretofore filed with the Town Clerk of the Town, has requested that the Town Board undertake proceedings pursuant to Section 202-b of the Town Law for the increase and improvement of facilities of the District and said Board of Commissioners has caused Nussbaumer & Clarke, Inc., engineers duly licensed by the State of New York (the “Engineer”) to prepare a map, plan and report dated February 2000, including Amendment No. 2 thereto dated January 2008, for such increase and improvement of facilities of the District, consisting of (i) removal and replacement of approximately 2,502 linear feet of sanitary sewer on Lake Shore Road (NYS Route 5), and connection to approximately 119 linear feet of new sanitary sewer installed by the NYSDOT over Berricks’s Creek in conjunction with the NYS Route 5 Bridge Replacement Project; and (ii) removal and replacement of approximately 298 linear feet of sanitary sewer on Clifton Parkway North (west side); all of the foregoing to include any equipment, furnishings, machinery or apparatus, and any ancillary or related work required in connection therewith; and the Engineer has completed said preliminary map, plan and report for said increase and improvement of facilities of the District and has estimated the cost thereof to

be \$1,050,000 and said map, plan and report have been filed with the Town Board of the Town; and

WHEREAS, the Town Board adopted an Order describing in general terms the proposed increase and improvement of facilities, specifying the estimated cost thereof, and stating the Town Board would meet to hear all persons interested in said increase and improvement of facilities on February 25, 2008 at 7:00 o'clock P.M. (Prevailing Time) at the Town Hall, S-6100 South Park Avenue, Hamburg, New York, in the Town; and

WHEREAS, a Notice of said public hearing was duly published and posted pursuant to the provisions of Article 12 of the Town Law; and

WHEREAS, said public hearing was duly held by the Town Board on the 25th day of February, 2008 at 7:00 o'clock P.M. (Prevailing Time) at the Town Hall, S-6100 South Park Avenue, Hamburg, New York, with considerable discussion on the matter having been had and all persons desiring to be heard having been heard, including those in favor of and those in opposition to said increase and improvement of such facilities; and

WHEREAS, the District, as lead agency, has given due consideration to the impact that the project described herein may have on the environment and has determined that such project constitutes an Unlisted action pursuant to the State Environmental Quality Review Act (SEQRA), constituting Article 8 of the Environmental Conservation Law, and 6 N.Y.C.R.R., Regulations Part 617 and the Board of Commissioners of the District and the Town Board have reviewed a Full Environmental Assessment Form prepared by the Engineer and the District has determined that the project will not result in any significant adverse environmental impacts and a negative declaration has been adopted by the Board of Commissioners of the District;

Now, therefore, it is hereby

DETERMINED, that it is in the public interest to increase and improve the facilities of the District as hereinabove described, at the estimated maximum cost of \$1,050,000; and it is hereby

ORDERED, that the facilities of the District shall be so increased and improved in accordance with the approved specifications and contract documents prepared by the Engineer heretofore retained by the District; and it is hereby

ORDERED, that a part of the cost of said increase and improvement of facilities is expected to be paid by the expenditure of New York State grant funds received or expected to be received in the approximate amount of \$750,000 and, in addition, approximately \$37,000 in other Town and/or District funds are available to pay a part of such cost, and any portion of the cost of the project not paid by the expenditure of grant funds and other available Town and/or District funds shall be financed by the issuance of not to exceed \$1,050,000 bonds of the Town, and the costs of said increase and improvement of facilities, including payment of principal of and interest on said bonds, shall be paid by the assessment, levy and collection of assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same; and it is hereby

ORDERED, although a portion of the cost of the project is expected to be paid from grant funds and other Town and/or District funds, the Town Board intends to authorize the issuance of bonds in the principal amount of \$1,050,000 to finance the full cost of the project to provide financing in the event the grant funds are not received in time to pay construction and other costs as needed; and it is hereby

FURTHER ORDERED, that the Town Clerk record, or cause to be recorded, a certified copy of this Resolution and Order After Public Hearing in the office of the Clerk of Erie County within ten (10) days after adoption thereof.

DATED: March 10, 2008

(SEAL)

TOWN BOARD OF THE TOWN OF HAMBURG

The adoption of the foregoing Resolution and Order was duly put to a vote on roll call, which resulted as follows:

Supervisor Walters	voting__Yea_____
Councilperson Best	voting__Yea_____
Councilperson Kesner	voting__Yea_____
Councilperson Smardz	voting__Yea_____
Councilperson Quatroche	voting__Yea_____

The Resolution and Order were declared adopted.

CERTIFICATE

I, CATHERINE A. RYBCZYNSKI, Town Clerk of the Town of Hamburg, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Town Board of said Town of Hamburg duly called and held on March 10, 2008, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the
corporate seal of said Town of Hamburg this 10th
day of March, 2008.

(SEAL)

Catherine A. Rybczynski, Town Clerk
Town of Hamburg

2.

On a motion of Councilman Smardz, seconded by Councilman Quatroche, the following resolution was

ADOPTED

Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
Noes 0

BOND RESOLUTION OF THE TOWN OF HAMBURG, NEW YORK, ADOPTED MARCH 10, 2008, APPROPRIATING \$1,050,000 FOR THE INCREASE AND IMPROVEMENT OF FACILITIES OF THE MOUNT VERNON SEWER DISTRICT, INCLUDING THE EXPENDITURE OF UP TO \$750,000 GRANT FUNDS RECEIVED OR EXPECTED TO BE RECEIVED FROM THE STATE OF NEW YORK AND UP TO \$37,000 AVAILABLE TOWN AND/OR DISTRICT FUNDS TO PAY A PART OF SAID APPROPRIATION; AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$1,050,000 SERIAL BONDS TO FINANCE SAID APPROPRIATION

Offered by: Councilperson Smardz

Seconded By: Councilperson Quatroche

Recital

WHEREAS, the Board of Commissioners of the Mount Vernon Sewer District (herein called the “District”) in the Town of Hamburg (herein called the “Town”), in the County

of Erie, New York, by petition heretofore filed with the Town Clerk of the Town, has requested that the Town Board undertake proceedings pursuant to Section 202-b of the Town Law for the increase and improvement of facilities of the District and said Board of Commissioners has caused Nussbaumer & Clarke, Inc., engineers duly licensed by the State of New York (the “Engineer”) to prepare a map, plan and report dated February 2000, including Amendment No. 2 thereto dated January 2008, for such increase and improvement of facilities of the District, consisting of (i) removal and replacement of approximately 2,502 linear feet of sanitary sewer on Lake Shore Road (NYS Route 5), and connection to approximately 119 linear feet of new sanitary sewer installed by the NYSDOT over Berricks’s Creek in conjunction with the NYS Route 5 Bridge Replacement Project; and (ii) removal and replacement of approximately 298 linear feet of sanitary sewer on Clifton Parkway North (west side); all of the foregoing to include any equipment, furnishings, machinery or apparatus, and any ancillary or related work required in connection therewith; and the Engineer has completed said preliminary map, plan and report for said increase and improvement of facilities of the District and has estimated the cost thereof to be \$1,050,000 and said map, plan and report have been filed with the Town Board of the Town; and

WHEREAS, after a public hearing duly called and held, the Town Board of the Town determined that it is in the public interest to increase and improve the facilities of the District, and ordered that such facilities be so increased and improved;

Now, therefore, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF HAMBURG, IN THE

COUNTY OF ERIE, NEW YORK (by the favorable vote of not less than two-thirds of all the members of said Board) AS FOLLOWS:

Section 1. The Town hereby appropriates the amount of \$1,050,000 for the increase and improvement of facilities of the District, as described in the Recitals hereto, including the expenditure of up to \$750,000 grant funds received or expected to be received from the State of New York and up to \$37,000 available Town and/or District funds to pay a part of said appropriation. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is \$1,050,000. The plan of financing includes the expenditure of up to \$750,000 New York State grant funds received or expected to be received and up to \$37,000 in other Town and/or District funds to pay a part of said appropriation, the issuance of not to exceed \$1,050,000 bonds, to provide financing for the full cost of the project in the event the grant funds are not received in time to pay construction and other costs as needed, and the assessment, levy and collection of assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same.

Section 2. Bonds of the Town are hereby authorized to be issued in the principal amount of not to exceed \$1,050,000 pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

Section 3. The following additional matters are hereby determined and stated:

(a) The period of probable usefulness of the object or purpose for which said bonds are authorized to be issued, within the limitations of Section 11.00 a. 4 of the Law, is forty (40)

years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town and/or District for expenditures made after the effective date of this resolution, or prior to the effective date of this resolution if a declaration of intent to issue bonds has been made, for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the serial bonds authorized by this resolution will exceed five (5) years.

Section 4. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the taxable real property within the Town without limitation as to rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds, and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and any notes issued in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the

issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and the renewals of said bond anticipation notes, and relative to executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This resolution shall take effect immediately and the Town Clerk is hereby authorized and directed to publish the foregoing bond resolution, in summary, in “THE SUN” and “FRONT PAGE,” two newspapers each having a general circulation in said Town, which newspapers are hereby designated as the official newspapers of the Town for such publication, together with the Town Clerk’s statutory notice in the form prescribed by Section 81.00 of the Local Finance Law of the State of New York.

The adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Walters voting___Yea___

Councilperson Best voting___Yea___

Councilperson Kesner voting___Yea___

Councilperson Smardz voting___Yea___

Councilperson Quatroche voting___Yea___

The Resolution was declared adopted.

CERTIFICATE

I, CATHERINE A. RYBCZYNSKI, Town Clerk of the Town of Hamburg, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Town Board of said Town, duly called and held on March 10, 2008 has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the
corporate seal of said Town this 10th day of
March, 2008.

(SEAL)

Catherine A. Rybczynski, Town Clerk
Town of Hamburg

3.

On a motion of Councilman Quatroche, seconded by Councilman Best, the following resolution was ADOPTED

Ayes 5
Noes 0

Walters, Best, Kesner, Quatroche, Smardz

WHEREAS, JAMES F. CONNOLLY, Superintendent of Highways, states that all those parts of certain Town highways hereinafter designated have not been opened or worked for more than six (6) years last past, and have not been traveled, or have been abandoned by the public and have never been used as a public highway to wit:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamburg, County of Erie, and State of New York, being part of Lot Number 48, Township 9, Range 7 of the Holland Land Company’s Survey, and being more particularly described as follows:

BEGINNING at the southeast corner of Sublot No. 173 of Map Cover No. 925, as filed in the Erie County Clerk’s Office, the said point also being on the north line of Sheldon Road and the west line of Potter Parkway; thence easterly along the north line of Sheldon Road to the west line of Sublot No. 253 of Map Cover No. 925, the said point also being on the east line of Potter Parkway; thence northerly along the west line of Sublot No. 253, a distance of 373 feet more or less to the northwest corner of Sublot No. 253; thence westerly a distance of fifty (50) feet to the west line of Potter Parkway; thence southerly along the west line of Potter Parkway to the point or place of beginning.

The above is intended to describe the northerly portion of Potter Parkway, a fifty (50) feet wide unimproved right-of-way, as shown on Map Cover No. 925 filed in the Erie County Clerk’s Office.

As a condition of this transfer, Grantee acknowledges and Grantor hereby declares that all parties that may presently have utility installations upon the above-described premises are hereby deemed to have a permanent easement for occupation, access, operation, and maintenance of their existing facilities in their current locations

BE IT RESOLVED that the members of the Town Board, constituting the whole thereof, consent to the making and filing of the necessary certificate that this highway be and hereby is abandoned, pursuant to Section 205 of the Highway Law, and

BE IT FURTHER RESOLVED that all members of the Town Board of the Town of Hamburg subscribe the certification.

ROLL CALL

Supervisor Walters Yea

Councilmember Best

Councilmember Kesner

Councilmember Quatroche

Councilmember Smardz

VOTING

Yea

Yea

Yea

Yea

The foregoing certification was duly adopted at said Town Board meeting.

Catherine Rybczynski
Town Clerk

ACKNOWLEDGMENT

STATE OF NEW YORK) SS
COUNTY OF ERIE)

I, CATHERINE RYBCZYNSKI, DO HEREBY CERTIFY that I am the Town Clerk of the Town of Hamburg, Erie County, New York; that the foregoing is a true and exact copy of a resolution adopted at a meeting of the Town Board held on the 10th day of March, 2008; and

I DO FURTHER CERTIFY that said meeting was called and held, and a quorum was present thereat.

IN WITNESS THEREOF, I have hereunto set my hand and affixed the seal of the Town of Hamburg this 10th day of March 2008.

CATHERINE RYBCZYNSKI
Town Clerk
Town of Hamburg

CERTIFICATION

I, THE UNDERSIGNED, JAMES F. CONNOLLY, Superintendent of Highways of the Town of Hamburg, in the County of Erie, State of New York, hereby certify that all those parts of certain Town highways hereinafter designated have not been opened or worked for more than six (6) years last past, and have not been traveled, or have been abandoned by the public and have never been used as a public highway to wit:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamburg, County of Erie, and State of New York, being part of Lot Number 48, Township 9, Range 7 of the Holland Land Company's Survey, and being more particularly described as follows:

BEGINNING at the southeast corner of Sublot No. 173 of Map Cover No. 925, as filed in the Erie County Clerk's Office, the said point also being on the north line of Sheldon Road and the west line of Potter Parkway; thence easterly along the north line of Sheldon Road to the west line of Sublot No. 253 of Map Cover No. 925, the said point also being on the east line of Potter Parkway; thence northerly along the west line of Sublot No. 253, a distance of 373 feet more or less to the northwest corner of Sublot No. 253; thence westerly a distance of fifty (50) feet to the west line of Potter Parkway; thence southerly along the west line of Potter Parkway to the point or place of beginning.

The above is intended to describe the northerly portion of Potter Parkway, a fifty (50) feet wide unimproved right-of-way, as shown on Map Cover No. 925 filed in the Erie County Clerk's Office.

As a condition of this transfer, Grantee acknowledges and Grantor hereby declares that all parties that may presently have utility installations upon the above-described premises are hereby deemed to have a permanent easement for occupation, access, operation, and maintenance of their existing facilities in their current locations.

ALSO, we the undersigned members of the Town Board, constituting the whole thereof, do hereby consent to the making and filing of this certificate and do hereby execute the same.

THEREFORE, pursuant to Section 205 of the Highway Law, said highway is declared to be and hereby is abandoned.

Dated:

JAMES F. CONNOLLY
Superintendent of Highways

TOWN BOARD OF THE TOWN OF HAMBURG

STEVEN J. WALTERS, Supervisor

THOMAS M. BEST, SR., Councilmember

JOAN A. KESNER, Councilmember

THOMAS J. QUATROCHE, JR., Councilmember

KEVIN SMARDZ, Councilmember

ACKNOWLEDGMENT

STATE OF NEW YORK) SS
COUNTY OF ERIE)

I, CATHERINE RYBCZYNSKI, DO HEREBY CERTIFY that I am the Town Clerk of the Town of Hamburg, Erie County, New York; that the foregoing is a true and exact copy of a resolution adopted at a meeting of the Town Board held on the 10th day of March, 2008; and

I DO FURTHER CERTIFY that said meeting was called and held, and a quorum was present thereat.

IN WITNESS THEREOF, I have hereunto set my hand and affixed the seal of the Town of Hamburg this 10th day of March 2008.

CATHERINE RYBCZYNSKI
Town Clerk
Town of Hamburg

4.

On a motion of Councilman Quatroche, seconded by Councilwoman Kesner, the following resolution was

ADOPTED

Ayes 5
Noes 0

Walters, Best, Kesner, Quatroche, Smardz

NOW, THEREFORE, BE IT RESOLVED, that the Town of Hamburg has determined that the proposed rezoning is not anticipated to result in any significant effect on the environment and that a Negative Declaration is hereby issued.

BE IT FURTHER RESOLVED, that the Supervisor be authorized to sign the Environmental Assessment Form.

7.

On a motion of Councilman Smardz, seconded by Councilman Quatroche, the following resolution was

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

WHEREAS, during the review and approval of the Wal-Mart project on Southwestern boulevard, the zoning of the adjacent property to the east of the site, 5334 Southwestern Boulevard, was questioned; and

WHEREAS, this site was considered for rezoning when the adjoining lot was rezoned to commercial several years ago, and was further contemplated and recommended during the Wal-Mart approval process; and

WHEREAS, the current owner of the property has requested that the property be rezoned to commercial; and

WHEREAS, the Code Review Committee has reviewed the application and found merit in the rezoning of this property; and

WHEREAS, the Hamburg Town Board did refer this rezoning request to the Planning Board for its review and recommendation; and

WHEREAS, on February 20, 2008 the Hamburg Planning Board did issue a positive recommendation to the Town Board with conditions regarding this request; and

WHEREAS, on February 25, 2008 the Town of Hamburg Town Board held the required public hearing and received comments from the public; and

WHEREAS, the requested rezoning is in compliance with the Town of Hamburg Comprehensive Plan; and,

WHEREAS, the Hamburg Town Board has issued a Negative Declaration;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Hamburg

hereby rezones the parcel located at 5334 Southwestern Boulevard from R-3 to C-2 with the following conditions:

1. No automotive uses will be allowed on the property, including sales, service and gasoline stations.
2. The property will only have one curb cut to Southwestern Boulevard at the eastern end of the parcel, and there will be cross-access to the adjoining properties.

BE IT FURTHER RESOLVED, that the zoning code of the Town of Hamburg be amended as follows:

To amend Local Law #10 of the year 1986 of the code of the Town of Hamburg entitled "Zoning" to provide for a change in the boundary of the zoning map whereby the zoning is changed from R-3 to C-2 for property located at 5334 Southwestern Blvd. and further described as follows:

Parcel "A"

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamburg, County of Erie and State of New York, being part of Lot No. 21, Township 9, Range 8 of the Holland Land Company's Survey and described as follows:

Beginning at a point in the northwesterly line of the Southwestern Boulevard distant 199.71 feet easterly from its intersection with the west line of Lot No. 21, Township 9, Range 8; running thence northerly parallel with the west line of Lot No. 21, 216.64 feet to the southerly line of lands deeded to Victor L. Dobay by deed recorded in the Erie County Clerk's Office in Liber 2797 of Deeds page 271; thence easterly along the southerly line of said lands 283.05 feet to the northwesterly line of the Southwestern Boulevard; thence southwesterly along the northwesterly line of the Southwestern Boulevard 359.23 feet to the place of beginning.

Parcel "B"

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamburg, County of Erie and State of New York, being part of Lot No. 21, Township 9, Range 8 of the Holland Land Company's Survey and described as follows:

Beginning at a point of intersection of the northwesterly line of Southwestern Boulevard with the west line of Lot No. 21; running thence northerly along the westerly line of Lot No. 21, 337.08 feet to the southerly line of lands deeded to Victor L. Dobay by deed recorded in the Erie County Clerk's Office in Liber 2797 of Deeds page 271; thence easterly along the southerly line of said lands 157.36 feet; thence southerly on a line parallel to the westerly line of Lot No. 21,

216.64 feet to the northwesterly line of Southwestern Boulevard; thence southwesterly along the northwesterly line of Southwestern Boulevard, 199.71 feet to the point or place of beginning.

Excepting therefrom those lands appropriated by the People of the State of New York by Notice of Appropriation dated August 5, 2004 and recorded in the Erie County Clerk’s Office on August 23, 2004 in Liber 11081 of Deeds at page 5979.

8.

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

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

BE IT RESOLVED, that the Susan Ljungberg-Murray request for rezoning be removed from the table.

9.

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

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

WHEREAS, the Town of Hamburg received a rezoning application from Susan Ljungberg-Murray for a parcel of vacant land located on the west side of Gowand State Road, north of Eighteen Mile Creek to be rezoned from RA and C-1 to NC (Neighborhood Commercial); and

WHEREAS, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Town Board has reviewed this rezoning request; and

WHEREAS, the rezoning of the property will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic consideration;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Hamburg has determined that the proposed rezoning is not anticipated to result in any significant effect on the environment and that a Negative Declaration is hereby issued.

BE IT FURTHER RESOLVED, that the Supervisor be authorized to sign the Environmental Assessment Form.

10.

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

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

WHEREAS, the Town of Hamburg received a rezoning application from Susan Ljungberg-Murray for a parcel of vacant land located on the west side of Gowanda State Road, north of Eighteen Mile Creek from RA and C-1 to NC (Neighborhood Commercial); and

WHEREAS, the Code Review Committee reviewed the application and found merit in the rezoning of this property; and

WHEREAS, the Hamburg Town Board did refer this rezoning request to the Planning Board for its review and recommendation; and

WHEREAS, on December 19, 2007 the Hamburg Planning Board did issue a positive recommendation to the Town Board with conditions regarding this request; and

WHEREAS, on February 11, 2008 the Town of Hamburg Town Board held the required public hearing and received comments from the public; and

WHEREAS, the requested rezoning is in compliance with the Town of Hamburg Comprehensive Plan; and

WHEREAS, the Hamburg Town Board has issued a Negative Declaration;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Hamburg hereby rezones this vacant parcel located on the west side of Gowanda State Road from RA and C-1 to NC with the following condition:

This parcel may be difficult to engineer for development.

BE IT FURTHER RESOLVED, that the zoning code of the Town of Hamburg be amended as follows:

To amend Local Law #10 of the year 1986 of the code of the Town of Hamburg entitled "Zoning" to provide for a change in the boundary of the zoning map whereby the zoning is changed from RA and C-1 to NC for vacant property located on the west side of Gowanda State Road and further described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamburg, County of Erie and State of New York, being part of Lot Number 9, Township 9, Range 8 of the Holland Land Company's Survey, bounded and described as follows:

beginning IN THE CENTER LINE OF Route 62 at a point 109.56 feet southerly from the north line of Lot No. 9 as measured along the center line of Route 62;

THENCE N 69 degrees 02 minutes 54 seconds W 50.69 feet to the principle point of beginning;

THENCE N 69 degrees 2 minutes 54 seconds W 230.69 feet to the north line of Lot No 9;

THENCE S 89 degrees 59 minutes 03 seconds W along the north line of Lot No 9, a distance of 52.50 feet to a point;

THENCE S 37 degrees 20 minutes 25 seconds W, 180.04 feet to the north bank of 18 Mile Creek;

THENCE S 29 degrees 12 minutes 22 seconds E 22.36 feet to north line of lands conveyed to Pearson H. Stuart and William A. Pitch in Liber 559 of Deeds at page 140 and Herbert D. Pierce in Liber 851 of Deeds at page 206;

THENCE S 69 degrees 02 minutes 54 seconds E 283.77 feet to the west line of Route 62 as appropriated by New York State and 72.17 feet west of the center line;

THENCE N 29 degrees 07 minutes 32 seconds E 207.95 feet to the principal point of place of beginning.

Together with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

11.

On a motion of Councilman Smardz, seconded by Councilwoman Kesner, the following resolution was

ADOPTED

Ayes 5

Walters, Best, Kesner, Quatroche, Smardz

Noes 0

BE IT RESOLVED, that the Town of Hamburg sponsored request for rezoning of the existing Wal-Mart property located at 4255 McKinley Parkway be removed from the table.

12.

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

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

WHEREAS, the Town of Hamburg sponsored a request for rezoning of the existing Wal-Mart property located at 4255 McKinley Parkway to be rezoned from C-1 to C-2; and

WHEREAS, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Town Board has reviewed this rezoning request; and

WHEREAS, the rezoning of the property will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic consideration;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Hamburg has determined that the proposed rezoning is not anticipated to result in any significant effect on the environment and that a Negative Declaration is hereby issued; and

BE IT FURTHER RESOLVED, that the Supervisor be authorized to sign the Environmental Assessment Form.

13.

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

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

WHEREAS, at the request of Wal-Mart, the Town of Hamburg sponsored a rezoning of the existing Wal-Mart property located at 4255 McKinley Parkway (Seven Corners) from C-1 to C-2, and

WHEREAS, when the Wal-Mart store was constructed, the land was zoned C-1 and

subsequently the Town changed the C-1 zoning code to limit the size of retail structures to 15,000 sq.ft. and therefore the existing use of the site was made nonconforming to the Town Code; and

WHEREAS, Wal-Mart is attempting to re-market the building and requests that the zoning be changed to C-2 so the building is in conformance with the Town Code; and

WHEREAS, the Code Review Committee has reviewed the application and found merit in the rezoning of this property; and

WHEREAS, the Town's Comprehensive Plan calls for that area to be regional commercial and the change to the Code has created a non-conformity with the Comprehensive Plan through no fault of Wal-Mart; and

WHEREAS, the Hamburg Town Board did refer this rezoning request to the Planning Board for its review and recommendation; and

WHEREAS, on November 21, 2007 the Hamburg Planning Board did issue a positive recommendation to the Town Board regarding this request; and

WHEREAS, on February 25, 2008 the Town of Hamburg Town Board held the required public hearing and received comments from the public; and

WHEREAS, the requested rezoning is in compliance with the Town of Hamburg Comprehensive Plan; and,

WHEREAS, the intent of the C-2 General Commercial District is to provide areas for larger scale (up to 100,000 square feet) regional type commercial operations, and these areas typically have access to major roads and highways within the Town that provide transportation routes to and from surrounding communities; and

WHEREAS, the Hamburg Town Board has issued a Negative Declaration;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Hamburg hereby rezones the parcel located at 4255 McKinley Parkway from C-1 to C-2 with no conditions, although the following notes should be included:

1. This rezoning incorporates only the existing Wal-Mart site that is currently zoned C-1.
2. There will be no change to the "buffer" residential zoning at the south end of the site.
3. There is no rezoning to the property to the east of the site zoned C-1.
4. This rezoning is being completed to make the property conforming so that the property can continue to operate with a >100,000 sq. ft. building, be sold, or be modified without the need for variances because of its non-conformity.

BE IT FURTHER RESOLVED, that the zoning code of the Town of Hamburg be amended as follows:

To amend Local Law #1 of the year 1998 of the code of the Town of Hamburg entitled "Zoning" to provide for a change in the boundary of the zoning map whereby the zoning is changed from C-1 to C-2 for property located at 4255 McKinley Parkway and further described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamburg, County of Erie and State of New York, being part of Lot 47, Township 9, Range 7 of the Holland Land Company's Survey and being more particularly bounded and described as follows:

Commencing at the intersection of the southerly right-of-way line of Big Tree Road (66 feet wide R.O.W) With the easterly right-of-way line of McKinley Parkway (120 feet wide R.O.W.); thence S 79 degrees 13' 21" E, along the southerly right-of-way line of Big Tree Road, a distance of 359.86 feet to the point of beginning; thence S 79 degrees 13' 21" E, along the aforementioned southerly right-of-way line of Big Tree Road, a distance of 247.51 feet to and angle point; thence S 78 degrees, 48' 00" E, along the aforementioned southerly right-of-way line of Big Tree Road, a distance of 539.31 feet to a point; thence S 11 degrees 12" 00" W, a distance of 450.00 feet; thence N 78 degrees, 48' 00" N, a distance of 25.00 feet to a point; thence S 11 degrees 12" 00" W, a distance of 364.00 feet to a point; thence N 78 degrees 48' 00" W, a distance of 510.94 feet to an angle point; thence N 79 degrees, 13' 21" W, a distance of 45.73 feet to a point on the easterly right-of-way line of McKinley Parkway (120 feet wide R.O.W.); thence N 01 degrees 41' 06" E, along the aforementioned easterly right-of-way line of McKinley Parkway, a distance of 541.97 feet to a point; thence S 79 degrees, 13' 21" E, a distance of 315.03 feet to a point; thence N 10 degrees 46' 39" E, a distance of 280.10 feet to the point of beginning.

Tax Identifier Map Parcel Number: A portion of 160.19-2-1.2

14.

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

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

Request a Resolution from the Town Board authorizing alcohol waivers for the following April Taylor Road rentals:

4/05/08

4/19/08

4/06/08	4/25/08
4/11/08	4/26/08
4/12/08	4/27/08
4/13/08	

15.

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

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

Request Town Board Resolution authorizing the approval of request closed tournament dates at the Hamburg Golf Course by the Hamburg’s Men’s, Women’s and Senior’s Clubs. Specific dates are as listed:

<u>Men’s Club</u>	<u>Women’s Club</u>	<u>Senior’s Club</u>
June 22 nd , 2008	June 5 th , 2008	June 10 th , 2008
July 12 th , 2008	July 10 th , 2008	July 18 th , 2008
August 3 rd , 2008	August 21 st , 2008	August 20 th , 2008
August 16 th , 2008		
September 13 th , 2008		

All listed dates are for the 2008 season. These requests have been reviewed and recommended for approval by the Recreation Advisory Board.

16.

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

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

RESOLVED, that the Town Board approve the recommendation of the Chief of Police in appointing ROBERT K. PAAS, to the vacant position of POLICE OFFICER (Probationary) with the Town of Hamburg Police Department. Mr. Paas is currently on the Civil Service list for Police

WHEREAS, the opening of a bid was held on March 10, 2008 at 11:00 a.m. by the Town Clerk, such bid being the only one received.

BE IT RESOLVED, that the Town Board authorize the Town Clerk to open the single bid from West Herr Ford for one (1) New and Unused 2008 Ford Explorer for Emergency Management.

BE IT FURTHER RESOLVED, that the Town board be authorized to accept such bid presented to the Town Board by the Town Clerk from West Herr Ford. Funds are available in account H24. 8760.201.

32.

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

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

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

TOWN BOARD MARCH 10, 2008
AUDIT OF CASH DISBURSEMENTS

		VOUCHER #S
OPERATING FUND:		
BATCH # 34	\$60,000.00	25095
BATCH # 35	\$299,047.02	25097-25168
BATCH #	\$152,174.75	UNPROCESSED
TOTAL OPERATING FUND DISBURSEMENTS:	\$511,221.77	
TRUST & AGENCY:		
BATCH # 11	\$16,437.38	
BATCH # 12	\$586,597.46	
BATCH #		
TOTAL TRUST & AGENCY DISBURSEMENTS:	\$603,034.84	
CAPITAL FUND DISBURSEMENTS:		
BATCH #	\$2,850.00	UNPROCESSED
BATCH #		
BATCH #		
TOTAL CAPITAL FUND DISBURSEMENTS:	\$2,850.00	

PAYROLL:

PR #5 \$565,380.68

PR #

PR#

TOTAL PAYROLL DISBURSEMENTS: \$565,380.68

PETTY CASH \$0.00

TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT: \$1,682,487.29

Reports from Town Board:

Councilwoman Kesner reports that last Saturday there was a fundraiser for the Kathleen Mary House and the place was jam packed. There had to be more than 600 people there and she commends Sharon McGleski and all of the staff there for the wonderful job they're doing. Presently there are four families there all with children. They rely solely on the kindness of everybody's heart here, they do not receive any grants.

Supervisor Walters notes that he hopes everyone will return for the next board meeting on March 24, 2008 for a presentation by Kevin Gaughan.

Reports from Department Heads:

George Utz, President of the Hamburg Fire Chiefs Association, reports he has an award for Joan Kesner. She has been a member of the Hamburg Town Council since 1995 and the liaison for the fire service of the Town. During her ten year as liaison she has coordinated effort to create Town of Hamburg Water Rescue Unit, Southtown's HazMat Unit. She has also been presented with the highest award from the Village of Hamburg, the highest civilian award to be presented. She has been instrumental in improving the emergency services throughout the Town, retaining the Public Dispatch Office and developing the new dispatch center in the Town.

Councilwoman Kesner thanks everyone and notes she is very honored and enjoyed working with everyone.

James Connolly reports that the rubbish pick up will begin in April and go through October.

Carmen Kesner reports that they are starting to change over the police cars.

Reports from the Public:

Joe Killian comments that there are several piles of garbage in the Scranton area since October. This may be from people moving and putting it out at the curb and it stays there.

Jim Connolly responds that one of the problems is people putting garbage out when the snow comes. This is an unsafe time to put things out. He wants it noted that each month it will be the third full week of the month for rubbish pick up.

Don Wiese notes that on resolution 19 four part time positions were created for dog control officer. He questions if there is a dog control officer now.

Supervisor Walters notes there are three full time dog control officer positions that are approved by Civil Service, it has been decided to try something different which will save considerable money and that's going with part time dog control officers as opposed to full time.

Don Wiese notes that on the 25th of February there was a hearing on the re-zoning for the entrance on Route 20, and he understands that the entrance is going to be some 440 feet from the Wal-Mart entrance. He submitted a drawing showing a teardrop which would be an island separating the traffic outgoing and incoming, much the same as it appears at the McKinley Mall. He strongly urges the traffic safety board to look into the possibility of restricting this entrance to and island so it separates no left hand turn.

33.

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

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

RESOLVED, that the Town Board motion to adjourn at 7:50 p.m.

