

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 March, 2009.

TOWN BOARD MEMBERS

PRESENT:

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

OTHERS PRESENT: Catherine A. Rybczynski, Town Clerk; Mary Dosch, Sr. Account Clerk; Kenneth Farrell, Town Attorney; Kurt Allen, Supervising Code Enforcement Officer; Robert E. Hutchison, Jr., Town Assessor; Andrew Reilly, Planning Consultant; Rick Krautsack, Deputy Highway Superintendent; Rick Lardo, Principal Engineering Assistant; Carmen Kesner, Chief of Police; Martin Denecke, Director of Recreation; Tim Regan, Community Development Assistant; Tim Ellis, Traffic Safety Coordinator.

1.

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

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

RESOLVED, that the Town Board move to Executive Session on a legal matter at 6:40 pm

2.

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

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

RESOLVED, that the Town Board adjourn Executive Session at 6:58 pm.

Pledge of Allegiance was recited.

Information on fire exits was provided.

7:00 p.m. Public Hearing on proposed local law #3, 2009; amendment of Local Law #10, 1986, Chapter 280-entitled Zoning

PLEASE TAKE NOTICE that there has been presented to the Town Board on February 23, 2009, pursuant to the Municipal Home Rule Law, a proposed local law to be known as proposed local law #3, 2009; said local law provides for the amendment of Local Law #10, 1986, Chapter 280-entitled Zoning, and provides substantially as follows:

For the adoption of an amendment to said Zoning Code for five acres of vacant land located on Jeffrey Boulevard, contiguous to the western boundary of the 49-acre Penn Dixie Paleontological and Outdoor Education Center. The property is identified as tax map parcel S.B.L. No. 159.12-2-2.112. The property is to be rezoned from —2 (Light Industrial District) to PR (Park/Recreation Lands District).

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 March 23, 2009 at 7:00 p.m. (local time), at which time all interested persons may be heard.

Dated: February 23, 2009

Catherine Rybczynski
Town Clerk
Town of Hamburg

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

Drew Reilly makes a brief presentation describing the parcel and zoning.

Councilwoman Kesner notes that this rezoning will compliment the existing residential area.

Supervisor Walters opens the meeting for public comment.

George Lee thanks the Board for rezoning this parcel.

Frank Marie notes that he has a business in that development and notes they went there because it was an industrial development.

Councilwoman Kesner questions where his business is.

Mr. Marie responds that it is located right next door from this parcel.

Supervisor Walters notes that it is something to keep in mind.

Jerry Bastedo notes he doesn't see any problem with it. This will eventually take traffic off of Bristol.

3.

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

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

RESOLVED, that the Town Board close the public hearing.

4.

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

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

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

03/09/09 Town Board meeting

03/16/09 Work Session

5.

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

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

RESOLVED, the Town Board authorize Captain Gregory Wickett and Patrolman Timothy Crawford to attend the “Empire State - Law Enforcement Traffic Safety Conference” to be held in Syracuse, New York, May 5th and 6th, 2009.

NO cost for Seminar, or Meals	
Lodging: \$94.00/night x 2 nights	\$188.00
Gas & Tolls: Approximately	<u>\$ 50.00</u>
 Total	 <u>\$238.00</u>

Use of unmarked Police vehicle is requested for transportation.

Money is available in account B3120.492.

6.

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

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

RESOLVED, that the Town Board authorize the Police Department to purchase two (2) new and unused Dodge Chargers, 4 door Sedans, for the Detective Bureau from Albany Dodge, Inc. Albany, New York for the cost of \$34,203.00, which includes delivery.

Price of vehicles is a New York State Contract Price.

Money is available in account B3120.202

7.

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

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

WHEREAS, On December 1, 2008 the Hamburg Town Board authorized the Department of Community Development to advertise “Request for Proposals” for consultants to provide Comprehensive Housing & Financial Counseling Services for the Town of Hamburg including the Villages of Blasdell and Hamburg, and

WHEREAS, the Request for Proposals were opened on March 11, 2009 at 11:00 a.m. and subsequently reviewed by the Department of Community Development, and

WHEREAS, the following firm submitted a proposal for Comprehensive Housing & Financial Counseling Services:

Belmont Shelter Corporation

NOW, THEREFORE BE IT RESOLVED, that the Hamburg Town Board authorize the Department of Community Development to accept the proposal of and enter into a contract with ***Belmont Shelter Corporation*** for Comprehensive Housing & Financial Counseling Services. The two year contract period begins April 1, 2009 and will expire March 31, 2011. Funding in the amount of \$29,000.00 is available in CD 8686.350; Administration and/or the Program Income Account.

George Lee thanks the Town Board again. He thinks this is fantastic for the Town and both Villages.

8.
Resolution #8 withdrawn

9.

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

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

WHEREAS, the Town of Hamburg is a Community Development Block Grant (CDBG) entitlement community receiving federal funds from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the towns Department of Community Development has jurisdiction and oversight over the CDBG funds and is responsible for ensuring that said funds are utilized in accordance with all federal requirements and regulations, and

WHEREAS, the Hamburg Town Board has expressed its desire to utilize a small portion of its CDBG “program income” funds specifically for job creation/job retention activities which shall only include;

- * Low interest loans to for-profit businesses in return for job creation/retention activities for low and moderate income persons.

NOW, THEREFORE BE IT RESOLVED, that pursuant to all laws and regulations of the CDBG program, the Supervisor be authorized to sign the agreement by and between the Town of Hamburg and the Hamburg Development Corporation for the use of:

Town of Hamburg CDBG funds, only in the form of program income funds that were previously identified to the HDC and to be created through this agreement with the HDC.

BE IT FURTHER RESOLVED, that this agreement is contingent upon the HDC following all federal rules, regulations and laws pertaining to the use of said CDBG funds.

10.

On a motion of Councilwoman Kesner, with a unanimous second, the following resolution was

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



PROCLAMATION

WHEREAS, the Town of Hamburg recognizes April, 2009 as the forty-first anniversary of the national Fair Housing Law, Title VIII of the Civil Rights Acts of 1968, and

WHEREAS, every American has the right to Fair Housing, the right to live where they choose, the right to raise a family, the right to own a home in dignity without fear of discrimination, and

WHEREAS, the Town of Hamburg has been and continues to be dedicated to the goals of Fair Housing, and

WHEREAS, the Town of Hamburg will continue to fight the existence of discrimination by providing assurance with its own Fair Housing Law, by working cooperatively with local Fair Housing agencies such as Housing Opportunities Made Equal, Inc (HOME) and also by proclaiming its dedication to the goal of Fair Housing and Fair Housing Opportunities for all members of the community.

THEREFORE FOR THESE REASONS, April, 2009 in the Town of Hamburg shall be known as...

“FAIR HOUSING MONTH”

BE IT FURTHER RESOLVED, that all residents are urged to recognize the importance of Fair Housing and that the people of Hamburg and Western New York are given an equal opportunity to live in the housing and communities of their choice.

11.

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

WHEREAS, bids were opened on March 18, 2009 for waterline replacement Contract No. 15, which is part of the overall Hamburg Water System Improvement Project; and

WHEREAS, ten bids were received, which are summarized as follows:

<u>Bidder</u>	<u>Total Bid</u>
J.D. Northrup Construction, Inc.	\$ 593,750.00
Fairway Contracting	\$ 644,905.10
Mar-Wal Construction, Inc.	\$ 676,563.75
Visone Construction, Inc.	\$ 680,259.00
Kandey Company, Inc.	\$ 698,887.00
Sicar Management & Construction, Inc.	\$ 709,862.00
New Frontier Excavating & Paving, Inc.	\$ 802,661.25
American Contracting, Inc.	\$ 829,320.00
E&R General Construction, Inc.	\$ 868,795.00
Occhino Corp.	\$ 906,940.50

WHEREAS, the bids have been reviewed by CRA Infrastructure & Engineering, Inc., who determined that J.D. Northrup Construction, Inc. is a qualified and responsible bidder, and recommended that the contract be awarded to them,

13.

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

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

RESOLVED, that the Town Board approve the hiring of six (6) in the Recreation Department as follows:

1. Hibbard, Kyle	Rec. Att'd P/T	03/30/2009	\$7.81 reg rate \$8.20 temp rate
2. Picciano, Ronald	Rec. Att'd P/T	03/30/2009	\$7.31
3. Omphalius, Ellen	Rec. Att'd P/T	03/30/2009	\$8.75
4. Wicka, John	Rec. Att'd P/T	03/30/2009	\$7.15
5. Wozniak, Richard	Rec. Att'd P/T	03/30/2009	\$8.20
6. Clendening, Robert	Rec. Att'd P/T	03/30/2009	\$10.84

14.

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

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

RESOLVED, the Town Board authorize Patrolmen Timothy Crawford and Thomas Boyer to attend "Police Motorcycle Operator Training", to be held in Baltimore, Maryland, April 20 - May 1, 2009.

Cost of Registration	\$1,495.00ea.	\$2,990.00
Cost of Lodging (13 nights)	\$ 175.00/night	2,275.00
Meals	\$ 40.00/day	1,120.00
Tolls and Gas (Approximate)		<u>150.00</u>

TOTAL

\$6535.00

Use of unmarked Police vehicle is requested for transportation.

Money is available in account H94.3120.494.1

15.

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

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

RESOLVED, that the Town Board approves Nussbaumer & Clarke, Inc.'s request for proposal for engineering consulting services for the proposed ice arena complex.

16.

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

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

WHEREAS, the Town of Hamburg by resolution adopted on February 23, 2009, resolved that a proposition for approval of a long term lease management agreement to construct buildings and improvements and to operate the Nike Base Ice Arena, shall be submitted at a Special Election,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF HAMBURG, IN THE COUNTY OF ERIE, NEW YORK AS FOLLOWS:

Section 1. A Special Election shall be held April 28, 2009, at the Hamburg Town Hall, 6100 South Park Avenue; Lake Shore Volunteer Fire Co., Inc.-Fire Hall, 4591 Lake Shore Road; Lake View Fire District-Fire Hall, 2005 Lakeview Road, and Woodlawn Volunteer Fire Co., Inc.-Fire Hall, 3281 Lake Shore Road in said Town, at 7:00 a.m. and the polls shall remain open until 9:00 p.m. or as much longer as may be necessary to enable voters then present to cast their votes.

Section 2. The Town Clerk shall cause the Notice of such Special Election to be

published at least once in the Sun and Erie County Independent and the Front Page, newspapers having a general circulation in the Town and hereby designated as the official newspapers of the Town, and to be posted on the sign board of the Town maintained pursuant to subdivision 6 of section 30 of the Town Law, said publication and posting to be at least ten (10) days before such Special Election.

Section 3. The Town Clerk is hereby authorized and directed to include in the Notice of Special Election, notice that the Town Board will submit at the said Special Election, a Proposition for approval or disapproval as recited in such Notice.

Section 4. At said Special Election, the vote upon the said Proposition shall be by separate ballot on voting machines and the only persons qualified to vote upon said Proposition shall be electors of the Town who are registered voters as of April 5, 2009.

Section 5. Said Notice shall be in substantially the following form:

**TOWN OF HAMBURG, NEW YORK
NOTICE OF SPECIAL ELECTION
April 28, 2009**

NOTICE IS HEREBY GIVEN that a Special Election of the residents of the Town of Hamburg, Erie County, New York (the "Town"), will be held in the Town on the 28th day of April, 2009, at which the polls will be kept open between the hours of 7:00 o'clock A.M. and 9:00 o'clock P.M. for the purpose of voting by ballot upon the following proposition:

PROPOSITION

Shall the Town of Hamburg enter into a long term lease management agreement to construct certain buildings and other improvements to the Nike Base Ice Arena and to operate the Nike Base Ice Arena, subject to: (1) passage of legislation by the New York State Legislature to alienate certain lands and improvements at the Nike Base for of this

project; and (2) successful negotiation of such agreement meeting all the requirements established by the Town of Hamburg?

The polling places at such election will be as follows:

<u>Location/Address:</u>	<u>Election Districts:</u>
Hamburg Town Hall 6100 South Park Avenue Hamburg, New York 14075	20, 21, 25, 30, 31, 32, 33, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 54
Lake Shore Volunteer Fire Co., Inc- Fire Hall 4591 Lake Shore Road Hamburg, New York 14075	15, 16, 17, 18, 19, 22, 23, 24, 26, 27, 28, 29, 55
Lake View Fire District-Fire Hall 2005 Lakeview Road Lake View, New York 14085	34, 35, 36, 48, 49, 50, 51, 52, 53, 56
Woodlawn Volunteer Fire Co., Inc.-Fire Hall 3281 Lake Shore Road Woodlawn, New York 14219	1, 2, 3, 4, 5, 6, 7, 8, 9 10, 11, 12, 13, 14

All electors of the Town who are registered voters as of April 5, 2009 shall be qualified to vote at such special election.

BY ORDER OF THE TOWN BOARD

Dated: March 23, 2009

Catherine Rybczynski
Town Clerk

Section 6. Forthwith after the Special Election is held, the Town Clerk shall prepare and file a certificate stating that a referendum was held pursuant to the provisions of said section and certifying the results of the voting on the Proposition submitted at such Special Election in the office of the County Clerk of Erie County.

Section 7. This resolution shall take effect immediately.

Supervisor Walters notes that the four locations that were listed are going to be districts specific.

Catherine Rybczynski, Town Clerk, responds that people can call the Board of Elections or the Town Clerk’s Office and we will be able to let them know what district they are in and where to go to vote.

17.

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

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

WHEREAS, Sections 26-28, of S56/A156, Public Protection and General Government Article VII of the Governor’s Budget Bill will permit a Town Board to convert the office of Highway Superintendent from an elected to appointed position, via permissive referendum, and

WHEREAS, Municipal Home Rule Law §23(e) already provides that a Town Board may adopt a local law subject to mandatory referendum to change the office of Highway Superintendent from an elected to appointed position, and

WHEREAS, a permissive referendum is a cumbersome, inefficient and time consuming process and there is no cost benefit resulting from this change to Municipal Home Rule Law §23(e);

THEREFORE, BE IT RESOLVED, the Hamburg Town Board is against this proposal because it’s residents deserve in maintaining an efficient government that is directly accountable to the people, is firmly against this proposal, and

BE IT FURTHER RESOLVED, that the Town of Hamburg urges its State Officials to oppose Sections 26-28, of S56/A156, Public Protection and General Government Article VII of the Governor’s Budget Bill and that a copy of this resolution be sent to Governor Paterson, Senate Majority Leader Smith, Assembly Speaker Silver, and the Western NY delegation.

18.

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

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

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

OPERATING FUND			VOUCHER #'S
BATCH #	27	\$74,066.81	32819
BATCH #	28	\$225,116.57	32823-32909
BATCH #	29	\$314,960.22	32916-32982
BATCH #			
TOTAL OPERATING FUND DISBURSEMENTS:			\$614,143.60
TRUST & AGENCY			
BATCH #			
TOTAL TRUST & AGENCY DISBURSEMENTS:			\$0.00
CAPITAL FUND DISBURSEMENTS:			
BATCH #	14	\$280,062.00	32820-32822
BATCH #	15	\$58,257.23	32910-32915
BATCH #			
TOTAL CAPITAL FUND DISBURSEMENTS:			\$338,319.23
PAYROLL:			
PR#	6	\$550,412.09	
TOTAL PAYROLL DISBURSEMENTS:			\$550,412.09
PETTY CASH			\$0.00
TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT:			\$1,502,874.92

Reports of the Town Board

Supervisor Walters asks for a brief moment of silence for Hamburg Development Board of Directors, Michael Schaeffer, who passed away unexpectedly. He was an excellent member of the Board. Secondly, the Town is hosting it's first Easter Egg Hunt on Saturday, April 4th at the Town Hall from 10:00 am - 12:00 pm, sponsored by Serv Pro. Fred Williams from the Buffalo

News is retiring and the Board thanks him for doing an excellent job and wishes him well in his retirement. Lastly, George Lee, Trustee of the Village of Blasdell, is retiring from the Blasdell Board. He has done a lot of good for the community and the Board gives him a round of applause.

Councilwoman Kesner adds that George is on a lot of the committees and always gives 110%. She wishes him well and thanks him for all he's done.

Reports from Departments

Catherine Rybczynski, Town Clerk, reminds everyone that Saturday, March 28th, we're participating in Passport Day in the USA from 10:00 am - 3:00 pm in the Town Clerk's Office. We will be doing passports, passport cards and pictures. If anyone has any questions feel free to contact our office.

Marty Denecke announces some facility openings and closings. The ice arena will be open through April 10th, this will reopen for spring and summer programming on April 25th. The golf course is scheduled to be open April 13th, weather permitting. The skate park is scheduled for April 13th, if the weather remains mild it will open sooner. Parking permits for Hamburg Town Park are available at the fitness center and Town Clerk's Office. Launch permits are available only at the fitness center.

George Lee reports the Blasdell is getting ready for the Memorial Day parade and National Night Out. It has been 15 years for Blasdell and Hamburg National Night Out.

Ken Farrell, Town Attorney, gives a presentation on what the Legal Department is and what they do. They review, draft and oversee contracts for all departments of the Town. They oversee the defense of all claims filed against the Town, respond to all Freedom of Information Act requests, as well as prosecute all traffic and vehicle offenses, criminal violations and town ordinances, other than crimes handled by the District Attorney's Office. Better general liability insurance coverage for the Town has been obtained and additional coverage added at the same time reducing the amount of premiums the Town pays by approximately \$25,000.00. Risk management techniques have been employed including sophisticated software tools to analyze, manage and minimize the risks and thus reduce the cost to the Town of this portion of the insurance program. Regarding other cost saving measures in doing the insurance review, it was discovered there were duplicate services or overlap of services this is professional services, with some of these being consolidated, the Town is now saving \$40,000.00 per year and these savings are recurrent savings every year. \$5,000.00 was also being held in the NYS Office of the Comptroller in unclaimed funds payable to the Town that was discovered and paid last year. In addition to that, through research and work on a project this year an additional revenue source was located which has the potential to go into the six figures it's over a 15 year life cycle. Finally, the actual budget of the Legal Department and over the past five years there was a 20% drop from 2004-2008, which amounts to almost a \$60,000.00 savings. Mr. Farrell thanks

the department heads and employees of the departments who assisted him in analyzing and managing the risk. He thanks his department who worked tirelessly to accomplish these objectives and to operate with the highest level of professionalism including Carl Morgan, who prosecutes about 8-10,000 citations a year, Deputy Town Attorney, Brian Doyle, and our Paralegal/Legal Secretary, Cindy Conlon, who is an expert in all areas of Town government and not only assists the Legal Department but her efforts go well beyond to assist other departments of the Town.

Business from the floor

Jerry Bastedo thanks the Town Board and the previous board for all the support given him. Also the Police, Planning, Zoning boards who have been a great help to them.

Ferd Garcia questions if the Legal Department staff are Town employees or contractors.

Supervisor Walters responds that they are Town employees.

Ferd Garcia also questions if there are any safety procedures for individual jobs.

Supervisor Walters responds that they work with a company who develops best practices and goes into the individual departments to make sure they are following best practices.

19.

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

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

RESOLVED, that the Town Board move to Executive Session on a Legal matter at 8:05 pm

20.

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

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

RESOLVED, that the Town Board adjourn Executive Session at 9:30 pm.

Catherine A. Rybczynski, Town Clerk