

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 8<sup>th</sup> day of September 2008.

TOWN BOARD MEMBERS

PRESENT:

Steven J. Walters	Supervisor
Thomas M. Best, Sr.	Councilman
Thomas Quatroche, Jr.	Councilman
Kevin Smardz	Councilman

ABSENT:

Joan A. Kesner	Councilwoman
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OTHERS PRESENT: Catherine A. Rybczynski, Town Clerk; Mary Dosch, Sr. Account Clerk; Kenneth Farrell, Town Attorney; Mike Williams, Assistant Chief; Gerard Kapsiak, Town Engineer; Tim Ellis, Traffic Safety Coordinator; Kurt Allen, Supervising Code Enforcement Officer; Martin Denecke, Director of Recreation; Gerald Koenig, Planning Board Chairman; Robert Hutchison, Jr, Town Assessor; Drew Reilly, Planning Consultant; James Connolly, Town Highway Superintendent.

Pledge of Allegiance was recited.

Information on fire exits was provided.

Supervisor Walters notes that letters were mailed out regarding the waterfront commercial



was

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

**RESOLVED**, that the Town Board authorize alcohol waivers for the following October 2008 Taylor Rd rentals:

10/4/08	10/17/08
10/5/08	10/18/08
10/11/08	10/24/08
10/12/08	10/25/08
10/14/08	10/26/08

**4.**

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

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

**RESOLVED**, that the Town Board approve the position changes of five (5) in the Buildings and Grounds Department as follows:

1.	Darling, Paul	Maint.	08/11/08	\$24.14
2.	Fisher, Pam	Laborer	08/11/08	\$22.99
3.	Sullivan, Pat	Laborer	08/11/08	\$22.79
4.	Granica, Mike	HEO	08/11/08	\$23.54
5.	Sortisio, Chris	Laborer	08/11/08	\$22.99

**5.**

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

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

**RESOLVED**, that the Town Board approve the membership of one into the Lake Shore Volunteer Fire Company as follows:

Joseph Pattison  
3450 Howard Rd Lot #15  
Hamburg, NY 14075

**6.**  
On a motion of Councilman Quatroche, seconded by Supervisor Walters, the following resolution was

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

**RESOLVED**, that the Town Board approve the hiring of three (3) and termination of twelve (12) in the Recreation Department as follows:

1.	Blake, Christopher	ER7251(225)	9/1/08	Terminate
2.	Cannon, Sean	ER7251(225)	9/1/08	Terminate
3.	McGahey, Meghan	ER7251(225)	9/1/08	Terminate
4.	Smith, Robert	ER7251(225)	9/1/08	Terminate
5.	Tingue, Justin	ER7251(225)	9/1/08	Terminate
6.	Nelson, Brett	Rec. Att'd Temp	9/6/08	\$7.98
7.	Tutuska, Dennis	Rec. Att'd	9/8/08	\$8.50
8.	Mahaffey, Matthew	Rec. Att'd	9/8/08	\$7.15
9.	Janicki, Alison	A7180(215)	9/8/08	Terminate
10.	Lane, Sean	A7180(215)	9/8/08	Terminate
11.	Maher, John	A7180(215)	9/8/08	Terminate
12.	McKenney, Matthew	A7180(215)	9/8/08	Terminate
13.	Michalek, John Connor	A7180(215)	9/8/08	Terminate
14.	Slowick, Angela	A7180(215)	9/8/08	Terminate
15.	Smith, Elizabeth	A7180(215)	9/8/08	Terminate

**7.**  
On a motion of Supervisor Walters, seconded by Councilman Quatroche, the following resolution was

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

**RESOLVED**, the Town Board authorize Suzanne McKinney, a student at Hilbert College to do Internship in the Police Department at no cost to the Town.

**8.**

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

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

**WHEREAS**, certain properties within the Town have been neglected or abandoned and as consequence the growth of weeds, grass and other rank vegetation has exceeded twelve inches in height, the standard established by Local Law No 9-1974.

**WHEREAS**, the Town Code Enforcement Official has identified these properties to be in violation of said local law and based on his formal inspections has mailed a notice of violation to the respective property owners with an order to cut and remove such grass and weeds on the premises.

**WHEREAS**, the Town has received no response by the listed owner nor has any remedial work been undertaken to alleviate the violations within the prescribed ten day period and subsequently the Town Code Enforcement Official has caused the grass and weeds to be cut and removed by a Town approved contractor.

**NOW, THEREFORE BE IT RESOLVED**, the Town Board approve the following invoices for payment for the work contracted to Windsor Enterprise Group, Inc. of Lakeview, New York to cut, mow, rake high grass and weeds including the proper disposal as directed by the Town Code Enforcement Official at the following locations:

<b>Property Address</b>	<b>Service Date (s)</b>	<b>Invoice Amount</b>
217 Kenton Place	07/21/08	\$86.25
	08/05/08	\$86.25
5530 Deacon Street	07/21/08	\$86.25
	08/05/08	\$86.25
4837 Gerber Pkwy	07/21/08	\$86.25
	08/05/08	\$86.25
6414 Mayflower	07/21/08	\$69.00
	08/05/08	\$69.00

5159 Briercliff	07/21/08	\$69.00
	08/05/08	\$69.00
2672 Lakewood	07/21/08	\$86.25
	08/05/08	\$86.25
97 Forestal	07/21/08	\$69.00
	08/05/08	\$69.00
3782 Cornell	07/21/08	\$69.00
	08/05/08	\$69.00
5131 College	07/21/08	\$69.00
	08/05/08	\$69.00

**BE IT FURTHER RESOLVED**, that the Town Board approve the transfer of funds from Account A599 to A3620.469 to finance this work.

**BE IT FURTHER RESOLVED**, that the Town Board authorize the Town Attorney to institute the appropriate actions against the owners of the aforementioned properties plus an additional administrative overhead fee of twenty-percent for recovery of costs incurred by the Town in connection with these proceedings as provided by Local Law No. 9-1974 Section 75-4B.

**9.**

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

**WHEREAS**, the Town of Hamburg, pursuant to Municipal Home Rule, is proposing Local Law #14 of 2008, which would amend Article XXIV-Sign Regulation, Local Law #5 of 1965-Building Construction & Fire Protection, and Local Law #2 of 1995-Storage Trailers, and

**WHEREAS**, pursuant to Part 617, NYCRR, Article 8 of the Environmental Conservation Law (SEQR), the Town has reviewed these proposals in accordance with SEQR, and

**WHEREAS**, the Town has determined that these laws will be more protective of the environment and provide better guidelines and rules for reviewing these types of applications.

**NOW THEREFORE, BE IT RESOLVED**, that the Town Board has determined that the adoption of Local Law #14 of 2008 will not have a significant impact on the environment, and

**BE IT FURTHER RESOLVED**, that the Town board issues a Negative Declaration, and,

therefore an EIS is not required

Supervisor Walters notes that there was a resolution that was supposed to be before #9 regarding the environmental review acts, SEQR, but was omitted when the resolutions were sent to the Town Clerk’s Office. This was just a procedural resolution that’s required before formally moving on to the next resolution.

**10.**

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

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

**WHEREAS**, pursuant to Municipal Home Rule, proposed Local Law No. 14, 2008, was presented to the Hamburg Town Board; said local law provides for amendments to the Town Code of the Town of Hamburg. The amendments can be described as follows:

**Amendment #1**       Local Law No., 1986, Zoning  
                          Article XXIV – Sign Regulation  
                          Amendments to Sections 280-234, 280-238, 280-260, 261

**Amendment #2**       Local Law No. 5, 1965, Building Construction & Fire Prevention  
                          Chapter 76  
                          Amendment to Section 76-10 B

**Amendment #3**       Local Law No. 2-1995, Storage Trailers  
                          Chapter 225  
                          Amendment to Sections 225-1 through 225-9

**WHEREAS**, in accordance with the provisions of Municipal Home Rule, on August 11, 2008, a public hearing was held for the purpose of discussion and public comment concerning the adoption of proposed local law No. 14, 2008.

**NOW THEREFORE BE IT RESOLVED**, that the Hamburg Town Board approve and adopt proposed Local Law #14, 2008, as outlined below.

**Amendment #1:**  
**Electronic Variable Message Sign Code Provisions**

**Insert Section 280-234. Definitions**

**MOBILE/PORTABLE/SANDWICH BOARD SIGN** - Any temporary or portable sign or sign structure not securely affixed to the ground or any other structure. This definition shall not include trailer mounted signs or signs mounted on a motor vehicle.

**SIGN, ELECTRONIC VARIABLE MESSAGE** - An exterior computer programmable sign capable of displaying words, symbols, figures or picture images that can be altered or rearranged by remote or automatic means without altering the face or surface of the sign. Typically these signs utilize "LED" or (light emitting diodes), plasma or LCD technology to produce the character and graphics of the display. Electronic message sign types are further defined and subdivided into the following categories:

**OUTDOOR NUMERIC DISPLAY** - An electronic variable message sign which singular function is only capable of displaying numbers and letters in a static mode only. These signs are restricted in operation, limited only to displaying gas/fuel prices at auto service stations, hotel room rates and time/temperature.

**SEMI-OUTDOOR** - An electronic variable message sign located within the physical enclosure of a building structure but visible from the exterior. These signs are typically located under a building canopy or roof line, or behind a glazed storefront or window opening allowing exposure to outside public view.

**SIGN, TIME/ TEMPERATURE DISPLAY**- A sign that only displays time and/or temperature and can only operate for that specified purpose.

**SIGN, ELECTRONIC VARIABLE MESSAGE OPERATIONAL MODES** - the operational modes applicable to electronic variable message signs are defined as follows:

**FADE** - a mode of message transition on an electronic variable message sign accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

**FRAME** - a complete, static display on an electronic variable message sign.

**FRAME EFFECT**- a visual effect on an electronic variable message display applied to a single frame to attract the attention of viewers.

**FREQUENCY/TRANSITION** - a visual effect used on an electronic variable message display to change from one message or display to another.

**MULTIMEDIA DISPLAY** - visual display or advertisement achieved through the means of changeable photographic or video imaging.

**SCROLL /TRAVEL** - a mode of message transition on an electronic variable message sign where the message appears to move vertically or horizontally across the display surface.

**Amend Section 280-238. to read**

**280-238 Illumination/ Brightness.**

Illumination shall be steady in nature, not fluctuating, flashing, moving or changing in brilliance or intensity. The light shall be the minimum necessary for the intended purpose of such illumination, consistent with public safety and welfare. Illumination shall not exceed 0.3 foot candles over the predetermined ambient light reading for the area measured twenty foot distance from the face of the sign. In no event shall any illuminated sign or lighting device be placed so as to permit the beams and illumination therefrom to be directed upon public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance. The full number of illuminating elements of a sign shall be kept in working condition or immediately repaired or replaced. Overhead wires or exposed wires on a sign or its supporting members are prohibited.

**Section 280-260. 280-260 A. & 280-261.**

**Delete “or Mixed Use” Districts**

**Insert Paragraph “I.” Section 280-261. Business signs in C or M districts.**

- I. Electronic Variable Message Signs, Outdoor Numeric Display and time /temperature sign.

**General Intent:**

The Town of Hamburg is responsible to protect and enhance the visual quality of the Towns environmental character, particularly along our primary streets. In addition to other traditional sign types, the Town of Hamburg recognizes the need to establish standards, regulate the placement and operation of electronic variable message signs in an effort to protect the safety and interest of the community and its residents.

Electronic variable message signs shall be permitted in C-2, M-1, M-2 and M-3 Districts and for institutions in R-2 and R-3 Districts that have a minimum of four hundred feet of frontage on a public roadway subject to the provisions of paragraph F. of this section and the following restrictions:

- (1) Operational Limitations. Such displays shall be limited to stationary displays, the frequency and method by which messages/graphics that appear or disappear from the display is to be regulated. Special effects or operational modes such as scroll, travel, spinning actions or the use of similar transitions and frame effects that have text, graphics or images that appear to move or change in size, or be revealed sequentially rather than all at once are prohibited.
- (2) Full animation, flashing or video display is expressly prohibited.
- (3) Minimum Display Time. Each message, graphic or image on the sign must be displayed for a minimum of eight (8) seconds.
- (4) Electronic variable message signs shall have maximum allowable area of 40 square feet (see exception applicable to existing billboards).
- (5) Only one electronic variable message sign is allowed per parcel including outdoor numeric and time /temperature display signs.
- (6) Electronic variable message signs not be placed within the Camp Road Overlay (Village Transition) District.
- (7) Multimedia displays are only allowed to be located within the full enclosure of a building structure as to have no exposure to the exterior and cannot be viewed from outside.
- (8) Outdoor numeric display - the character height of number or letters contained in an outdoor numeric display cannot exceed twelve inches. The application of outdoor numeric display for the purpose of advertising fuel/gasoline prices at a fueling facility (or auto service station) and room rates at hotels/motels are allowed at existing facilities.
- (9) Electronic variable message signs shall not be located within 2000 linear feet of any such sign.
- (10) Semi-outdoor electronic variable message signs are restricted to a maximum of four square feet in area and must be located within the foot print of the building. Said signs shall occupy no more than twenty percent of the glazed opening it is

located behind.

- (11) Existing billboards, posters and bulletins that have been previously approved by the Town are allowed to be converted to electronic variable message signs provided they fully comply with the provisions of this section.
- (12) All existing and new electronic variable message signs require an annual license fee to defray the Town's cost to monitor and regulate their operational mode in accordance with the provisions of this chapter. The cost of this fee shall be established as deemed appropriate through approval of Town Board resolutions.

**Insert Section 280-261. Business signs in C or M districts.  
Insert Paragraph "J."**

- (J) Sandwich board signs shall not be greater than nine square feet, shall not be taller than three feet from the ground to the top of the sign and shall not be wider than three feet. Only one such sign shall be allowed per business or enterprise. No such sign shall be permitted in a public right of way area unless the applicant seeking to display the sign has filed with the Town of Hamburg Code Enforcement Department an indemnification and hold harmless agreement in a form acceptable to the Town. All existing and new sandwich board signs require an annual license fee to defray the Town's cost to monitor and regulate their use in accordance with the provisions of this chapter. The cost of this fee shall be established as deemed appropriate through approval of Town Board resolutions.

**Amendment #2:**

**Section 76-10 B: Building Construction & Fire Prevention**

Permits shall continue until revoked or finalized as provided herein or expire after a period of one year. *Pools and demolition permits will expire after a period of ninety (90) calendar days.* An extension of the permit time period may be granted, provided that satisfactory reason can be shown for failure to complete the work or activity authorized within the prescribed time period. For good cause shown, an application may be made for a six-month period for an extension of said period upon payment of a renewal fee of ½ the original building permit fee. Permits can only be renewed twice (one year beyond the original permit expiration date), and upon such

expiration the work shall continue only if a new permit is granted at the discretion of the Code Enforcement Department.

**Amendment #3:**

**Chapter 225 : Temporary Storage Units/ Storage Trailers**

**225-1. Purpose and Intent.**

This chapter is adopted to improve and promote the health, safety and general welfare of the community, including the protection and preservation of property and its inhabitants by regulating the placement of Temporary Storage Units and /or Storage Trailers on both on private and public land within the Town of Hamburg.

**225-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**TEMPORARY STORAGE UNIT** - shall mean a transportable unit designed and utilized primarily for temporary storage of building materials (before they are utilized for building purposes), household goods, personal items and other such materials, for use on a limited basis on residential and commercial properties. Such unit shall not be considered an accessory structure as provided in the Town of Hamburg Code.

**STORAGE TRAILER** - Any enclosed vehicle, semi-trailer, rail car, large van or bus (or portion thereof) which was originally intended for the hauling of freight, people, goods or equipment over the road or by rail.

**225-3. Provisions. Temporary Storage Units.**

**Temporary Storage Units** which are placed on residential and commercial properties within the Town shall comply with the following standards:

- A. Only one temporary storage unit may be placed on any residential and commercial property at one time.
- B. Contents and purpose of the temporary storage unit must relate to the applicant's residence of commercial activity.
- C. Temporary Storage Units are prohibited from being placed in streets or on roadways.
- D. Temporary Storage Units must be kept in the driveway of the property at the furthest accessible point from the street (farthest point from the front yard area).
- E. All locations must be asphalt, concrete or other impervious surfaces.

- F. The Temporary Storage Unit shall be located at said residential or commercial property address for an initial time period of thirty (30) consecutive days, including the days of delivery and removal. An extension of time may be granted to the property owner through the issuance of a permit by the Code Enforcement Department, subject to conditions, for a reasonable additional time period in an amount not to exceed ninety (90) days.
- G. Emergency extensions may be granted by the Code Enforcement Department based upon written documentation, e.g. flooding, fire, wind damage, etc.
- H. No Temporary Storage Unit shall be used to store any of the following: solid waste, construction and demolition debris, recyclable materials, business inventory, commercial goods, goods for retail sales, and other illegal, explosive or hazardous material. Upon reasonable notice to the property owner, the Town of Hamburg may inspect the content of any Temporary Storage Unit at any reasonable time to ensure that it is not being used to store aforementioned materials.
- I. No Temporary Storage Unit shall display any message other than the name of the Temporary Storage Unit vendor.

#### Size Restrictions

To ensure the public health, safety and welfare of the community a Temporary Storage Unit cannot exceed the following size requirements:

- 1) 20 feet in length
- 2) 2,600 cubic feet in size
- 3) 13 feet in height measured from the ground to the top of the structure;
- 4) Eight feet in width.

#### **225-6. Permit Requirement. Temporary Storage Units.**

Where a temporary storage unit has remained on the premises for period of time exceeding thirty (30) days it shall be necessary for the property owner to remove the Temporary Storage Unit or obtain a temporary permit. All permits shall be obtained from the Town of Hamburg Code Enforcement Department Said permits shall expire ninety (90) days from the date of issuance and may contain conditions as determined by the Code Enforcement Department. The cost of such permits shall be determined by the Hamburg Town Board from time to time by Board resolution.

#### **225-7. Provisions. Storage Trailers.**

It is prohibited to place and/or utilize a storage trailer for the purpose of long term storage, (a period time exceeding ninety consecutive calendar days) on any property, both public and private within the Town of Hamburg.

**225-8. Exceptions. Storage Trailers.**

The use of storage trailers for the purpose of storing materials, goods, parts, and equipment on only those properties is permitted where it has been verified by the Code Enforcement Department that construction and /or development is taking place only after a temporary permit has been granted.

**225-9. Permit Requirement. Storage Trailers.**

A temporary permit shall be required prior to the placement of any storage trailer on public or privately owned property which is undergoing development or where construction is taking place.

All permits shall be obtained from the Town of Hamburg Code Enforcement Department All permits shall expire six months from the date of issuance. Permits can be renewed for extended six month intervals at the same cost of the original established fee, if necessary, until construction is completed or the project has been terminated or abandoned. The cost of such permits shall be determined by the Hamburg Town Board from time to time by Board resolution.

**225-10. Reporting of contents. Storage Trailers.**

- A. The contents of all storage trailers shall be reported, using the guidelines of Section 209-u of New York State General Municipal Law. Two copies of the Hazardous Materials Report form shall be filed prior to issuance of a permit. One copy is to be sent to the local fire dispatcher. The second copy must be incorporated into the permit file.
- B. All warning placards which would have been required for the contents under the Federal Department of transportation guidelines, as covered in the Code of Federal Regulations, Title 49, Parts 100-199 (49CFR 100-199), Shall be posted and remain in place during the entire time of storage.

**225-11. Enforcement/Penalties.**

- A. Should the Code Enforcement Officer find that an alleged Temporary Storage Unit is located on a property without the necessary permit, the enforcement officer is hereby authorized pursuant to Criminal Procedure Law Section 150.20(3) to issue an appearance ticket to any person whom the Code

Enforcement Officer has reason to believe has violated this law, and shall cause such person to appear before the Town Justice.

- B. Any person who shall violate any of the provisions of this law shall be guilty of a violation and subject to the following: (1) a fine not to exceed \$100.00 for the first offense and; (2) a penalty of \$200.00 for each week subsequent to the first such violation and ; (3) when the violation fee reaches \$400, the offense is to be recovered by the municipality in a civil action
- C. The Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with, or restrain by injunction, the violation of any provision of this law.

**225-12. Severability.**

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

**225-13. Effective Date.**

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

Mr. Reilly notes that the law is slightly different than what was presented at the public hearing.

Mr. Allen responds that the modifications that were made were due to some of the response received at the public hearing. These involved permitting variable message signs at institutions in R-2 and R-3 districts. The illumination of brightness as well as the frequency of messages.

**11.**

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

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

**WHEREAS**, with the amendments pertaining to the Electronic Variable Message Signage, and mobile portable sandwich board signs the Town of Hamburg needs to establish new fees, and



**BE IT RESOLVED**, this singular bid is authorized to be opened and reviewed by Highway Superintendent, Jim Connolly, for his recommendation.

**14.**

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

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

**WHEREAS**, the Hamburg Development Corporation (HDC) cooperatively submitted an application with the Village of Hamburg for New York Main Street Program funds through the New York State Housing Trust Fund Corporation, and

**WHEREAS**, the Hamburg Development Corporation (HDC) was the primary applicant for this program due to its 501-C-3 designation, and

**WHEREAS**, the Village of Hamburg had requested and will receive \$200,000.00 from the New York Main Street Program through the New York State Housing Trust Fund Corporation, and

**WHEREAS**, the \$200,000.00 in grant funding is to be utilized for the issuance of grants to businesses for renovation and facade work within a specific target area in the Village of Hamburg.

**NOW, THEREFORE BE IT RESOLVED**, that the Executive Director of the Hamburg Development Corporation (HDC) be authorized to sign the agreement by and between the New York Main Street Program through the New York State Housing Trust Fund Corporation and the Village of Hamburg for the use of these funds.

**BE IT FURTHER RESOLVED**, that the Village of Hamburg; be solely and independently liable for all work and any litigation that arises; that the Village of Hamburg shall indemnify and hold harmless the Hamburg Development Corporation (HDC), its Executive Director, Directors and Board Members and the Town of Hamburg from said work and litigation and that the Hamburg Development Corporation and the Town of Hamburg be added as an additional insured on any liability policy with relation to this agreement and program.

**15.**

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

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

**WHEREAS**, the Town of Hamburg has drafted an update to the Town’s Comprehensive Plan; and,

**WHEREAS**, the Town Board declared itself Lead Agency, pursuant to Part 617.6 NYCRR Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]); and,

**WHEREAS**, the Town Board reviewed comments and considered the impacts of adopting the Comprehensive Plan Update, pursuant to Part 617.7 NYCRR Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]); and,

**WHEREAS**, the Town Board held a Public Hearing regarding the adoption of the Comprehensive Plan Update on Monday, August 11, 2008; and,

**WHEREAS**, the Town’s Comprehensive Plan will be more protective of the environment and will provide tools to help the Town reach its Goals and Objectives; and,

**WHEREAS**, the adoption of the Plan and the issuance of a Negative Declaration does not relieve the Town from completing SEQR on any specific implementation actions or projects proposed in the Town; and,

**NOW THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Hamburg has determined that the adoption of the Comprehensive Plan Update will not have significant impact on the environment; and,

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

**16.**

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

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

**WHEREAS**, the Town of Hamburg adopted the Town of Hamburg 2010 Comprehensive Plan (1997 Master Plan Update) on June 23, 1997, and

**WHEREAS**, that document, in accordance with Section 272-a of General Town Law, served as the Town's Official Comprehensive Plan for the last ten years, and

**WHEREAS**, this Plan has been implemented over the last ten years but had begun to reach the end of its planning period, and

**WHEREAS**, in 2006, the Town of Hamburg initiated an update to the 2010 Comprehensive Plan and formed a Comprehensive Plan Update Committee, and

**WHEREAS**, the Committee and the Town's Planning Consultant, Wendel Duchscherer, have worked diligently on an update to the 2010 Plan over the last two years, and

**WHEREAS**, the Committee, its consultant, and the Town Board have formulated a final draft of the 2008 Comprehensive Plan Update, and

**WHEREAS**, the Hamburg Town Board completed a coordinated review for the State Environmental Quality Review Act (SEQRA) process and has issued a Negative Declaration; and

**WHEREAS**, the Hamburg Town Board held a Public Hearing on the 2008 Comprehensive Plan Amendment on August 11, 2008

**NOW, THEREFORE BE IT RESOLVED**, that the Town of Hamburg hereby adopts the document entitled "Town of Hamburg – 2007 Comprehensive Plan Update" dated June 2008 as the official Comprehensive Plan of the Town of Hamburg, and

**BE IT FURTHER RESOLVED**, that the Town Board thanks the Comprehensive Plan Committee for their diligent work on this project.

Supervisor Walters thanks the members of the committee for their hard work and volunteering their time to help put this plan together. He then gives special recognition to those that were in attendance: Joe Killian, Jerry Koenig, Bea Reska, and Doug Shaw.

**17.**

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

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



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

**BE IT RESOLVED**, that the Town Board authorize the Finance Department to increase appropriation account A1355.440 Contracted Personal Services in the amount of \$5,000. This will be funded through the A599 Appropriated fund balance (STAR funding), and

**BE IT FURTHER RESOLVED**, the Town hire Wendel Engineering to provide upgrades to the Town’s internet and desktop GIS systems. Funds are available in account A1355.440

**20.**

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

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

**RESOLVED**, that the Town Board approve the hiring of three (3) and termination of three (3) in the Town Clerk’s Office as follows:

1.	Reilly, Michael	Clerk P/T	9/7/08	Termination
2.	Reilly, Michael	Clerk P/T Seas.	9/8/08	\$9.34
3.	Kellerman, Sharon	Clerk P/T	9/7/08	Termination
4.	Kellerman, Sharon	Clerk P/T Seas.	9/8/08	\$11.29
5.	Catanzaro, Beverly	Clerk P/T	9/7/08	Termination
6.	Catanzaro, Beverly	Clerk P/T Seas.	9/8/08	\$9.34

**21.**

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

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

**WHEREAS**, the condition of the following listed residential properties within the Town have been deemed by the Town Code Enforcement Official to be an endangerment to the public.

<u>Address/location</u>	<u>Current/Last Known Property Owner</u>
6207 Heltz Rd (SBL: 194.00-3-1)	Matteo Bellettiere
3091 Seaford (SBL: 170.05-12-6)	Dennis Klein
3319 Nash Road (SBL: 170.10-2-84)	William & Dolores Hammer
3684 Third St (SBL: 150.58-1-22)	Charles & Mildred Russell

**WHEREAS**, it was the determination of the Town Code Enforcement Official based on his formal inspections and reports to the Town Board and in accordance with the provisions of Local Law No. 5-1972, Section 80-3, did proceed to condemn the listed premises.

**WHEREAS**, the Town has received no response by the listed owner nor has any remedial work been undertaken to alleviate the known hazards. Currently the unsafe conditions which persist on the four listed premises have only become more hazardous to the community.

**THEREFORE, BE IT RESOLVED**, that the Town Board based on the review of the report prepared by the Town Code Enforcement Official and the absence of response by the property owners, order the demolition of the four residential structures and complete removal of all unsafe debris and refuse left on the properties.

**NOW, BE IT FURTHER RESOLVED**, the Town Board authorize the Town Code Enforcement Official to initiate the process in order to expedite the demolition of said properties including the necessary remedial work to render all four properties safe, including defining demolition scope and establishing cost estimates as required.

**22.**

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

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

**BE IT RESOLVED**, upon the recommendation of the Traffic Safety Advisory Board, that R1-1 (STOP) sign be installed and maintained by the Buildings and Grounds Department at the intersection of Fox Chase and Shadow,

**BE IT FURTHER RESOLVED**, that F2-3 (AREA SPEED 30) signs be installed and maintained at the following locations:

Tim Tam Trail  
Horton Avenue  
Cloverbank Extension

Shadow Lane  
Woodsfield Lane

**23.**

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

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

**BE IT RESOLVED**, the Town Board approve the continuation of the lease agreement with Frontier Central School regarding the play field across from the Wanakah Administration Building on Orchard Ave in Wanakah with a term of 5 years at \$5 per year.

**24.**

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

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

**BE IT RESOLVED**, that the Town Board authorize the transfer of \$24,000 as follows:

From: Contingency Account B1990.419  
To: Refuse Account B8160.444

**25.**

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

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

**RESOLVED**, that the Town Board approve a \$3000.00 stipend for Richard Krautsack for 2008. This is for drainage assessments and repairs. Funds in A8540.

**26.**

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

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

**BE IT RESOLVED**, that the town of Hamburg Board approve the application of the Hamburg Town Court to the Justice Court Assistance Program for a grant to purchase a video surveillance system.

**27.**

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

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

**WHEREAS**, bids were opened on September 3, 2008 for the construction of drainage improvements in the Smith Road area; and

**WHEREAS**, six bids were received, which are summarized as follows:

<u>Bidder</u>	<u>Total Bid</u>
Russo Development, Inc.	\$111,750
LDC Construction Co., Inc.	\$113,250



BATCH # 99	\$ 51,142.77	28769-28861	
BATCH #100	\$ 4,918.30	28862	
BATCH #101	\$ 80,798.28	28872-28915	
BATCH #102	\$ 409,176.36	28623-28673	
BATCH # 103	\$ 31,673.59	UNPROCESSED	
TOTAL OPERATING FUND DISBURSEMENTS:			\$1,293,702.60

## TRUST &amp; AGENCY

BATCH #			
TOTAL TRUST & AGENCY DISBURSEMENTS:			\$ 0.00

## CAPITAL FUND DISBURSEMENTS:

BATCH # 49	\$185,536.76	28325-28329	
BATCH # 50	\$292,896.75	28546-28553	
BATCH # 51	\$ 47,552.93	28620-28622	
BATCH # 52	\$ 34,841.58	UNPROCESSED	
TOTAL CAPITAL FUND DISBURSEMENTS:			\$ 560,828.02

## PAYROLL:

PR # 17	\$623,386.32		
PR # 18	\$545,290.61		
TOTAL PAYROLL DISBURSEMENTS:			\$1,168,676.93

PETTY CASH			\$ 0.00
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TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT:			\$3,023,207.55
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**Reports of the Town Board and Departments**

Councilman Best updates that the Town Board along with the Legal Department, Town Clerk's Office and Assessing Office have been having on going negotiations with Erie County Agricultural Society with regards to their tax abatements and assessment. Hopefully in the end there will be a peaceful settlement.

Supervisor Walters reports that this Thursday at 7:00 pm in front of the Town Hall there will be a 9/11, Remembrance Ceremony.

Catherine Rybczynski, Town Clerk, reports that she received a card to read at this meeting from Gertrude Hull and reads as follows:

As part of the Seaway Trail, the old Wanakah Water Works, located on Route 5 is a treasure!

I recently had a tour through the building and was amazed at the beauty of it. The fish exhibit alone would appeal to all ages.

At the back of the building facing the lake, one can see a beautiful sunset, or the windmills with the City of Buffalo in the back ground.

I urge the people of Hamburg to visit the building to see the beauty of it.

Sincerely,  
Gertrude Hull

Cathy also notes that School taxes are now being collected in her office.

Ken Farrell, Town Attorney, reports that he's pleased to report that the long standing litigation against the Town concerning alleged environmental hazards at the Nike Base was dismissed. The Court of Appeals denied the motion and therefore that finally concludes that litigation in favor of the Town.

Gerard Kapsiak reports that Erie Community College South Campus is having another drop off on Saturday, September 27, 2008 from 9:00 am - 2:00 pm for computers, electronics and appliances.

Drew Reilly reports that in regard to the Izzo rezoning the Board may take action at their next regular meeting in two weeks or the October meeting. Also, in regard to the Tops fueling facility the Village sent out letters and these letters need a response so a decision can be made. The Walgreens project is also at the Village and the Village will make their decision and get back to the Town Planning Board.. Also, he's been getting calls and email regarding a petition on South Park Woods. This is a project the Planning Board received over three/four years ago, preliminary. There were wetland and sewer issues with it and he believes the project is over. With regard to the Waterfront Commercial Rezoning, they tabled making any decisions tonight because of poor attendance at the public hearing and all the calls and questions about it.

Supervisor Walters opens the floor to anyone who has specific questions, comments or concerns regarding the Waterfront Rezoning.

Joe Snyder owns a piece of property that is at the edge of the waterfront commercial and they are in the process of sub dividing it. His concern is if the rezoning could encompass his whole parcel as apposed to a portion of it.

Mr. Reilly responds that they tried to match it but if they haven't they will try to.

Denise Davidson questions under the waterfront commercial/residential is it possible for commercial use.

Mr. Reilly responds mixed use. You can have a business and residential but not pure residential.

Joe Killian notes he sees the need for creating this but it appears to be spotted in there. He wonders if in the future they plan on connecting the dots.

Drew Reilly responds that the Hoover Beach residents wouldn't be happy if their property were to be rezoned to waterfront commercial. That is why the Hoover Beach area was taken out.

Marcus Kessler of Grover Place questions why this would be classified as waterfront commercial.

Mr. Reilly responds that they didn't want to take a lot of residential properties and zone them to commercial but the back part of the property is probably zoned commercial.

Councilman Quatroche questions if there is a non conforming use now, like what was stated earlier if there is a residence and it hasn't been used as such for a year, does it become a non conforming use now.

Mr. Reilly responds that it is correct. If they were to abandon the property for over a year, the Town would say that anyone new that came in would have to meet the current zoning. Drew requests that Mr. Kessler submit a letter and they will take a look at it.

Dave Battison questions why at the foot of Camp Rd does the NC, then at the Dock of the Bay that's NC but it's surrounded by WC.

Mr. Reilly responds that these are the six houses that requested it five years ago but we didn't have WC.

Mr. Battison questions why that doesn't automatically fall into the WC withing 1500 feet.

Mr. Reilly responds that when it was rezoned recently for those people, now to change them again would be difficult on them. This is all online if you go under the Town's website and then under general code. The earliest would be the October meeting that this would be brought up again but it will be on the Town's website and this will allow time to get the answers to the questions asked.

Assistant Chief Williams reports that the new speed trailer should be on the road shortly that will be used for speed enforcement and also the motorcycle should be out within the next week.

Mr. Ellis reports that he has information on the Enhanced drivers license that's coming out. Just a reminder to motorists that school is back in session, please be extra careful and stop fully for a stopped school bus with it's red lights flashing even in a divided highway.

George Lee reports that Mother of Good Council Senior Citizen Center is having a rough time crossing the road. He wonders if the Town would be able to get a couple of white lines across the road.

