

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 one the 10th day of September 2007.

TOWN BOARD MEMBERS

PRESENT:

| | |
|-----------------------|--------------|
| Steven J. Walters | Supervisor |
| D. Mark Cavalcoli | Councilman |
| Joan A. Kesner | Councilwoman |
| Thomas Quatroche, Jr. | Councilman |
| Richard A. Smith | Councilman |

OTHERS PRESENT: Catherine Rybczynski, Town Clerk; Richard Boehm, Deputy Town Attorney; Mary Dosch, Sr. Account Clerk; Timothy Willard, Assistant Director of Housing & Building Inspection, Robert Hutchison, Jr., Town Assessor; Timothy Ellis, Traffic Safety Coordinator; William Dash, Working Crew Chief Carmen Kesner, Chief of Police; Martin Denecke, Director of Recreation; Gerard Kapsiak, Town Engineer; John Farrell, Director of Senior Citizens; Drew Reilly, Planning Consultant.

The Pledge of Allegiance was recited.

Information on fire exits was provided.

1.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

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

| | |
|-----------------|--------------------|
| August 6, 2007 | Town Board Meeting |
| August 13, 2007 | Special Meeting |

2.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board approve alcohol waivers for the following October 2007 Taylor Road rentals:

| | | |
|----------|----------|----------|
| 10/05/07 | 10/14/07 | 10/25/07 |
| 10/06/07 | 10/18/07 | 10/26/07 |
| 10/07/07 | 10/19/07 | 10/28/07 |
| 10/13/07 | 10/20/07 | |

3.

On a motion of Councilman Cavalcoli, seconded by Councilman Smith, the following resolution was

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

WHEREAS, the Town of Hamburg has received an application for rezoning and site plan review from Benderson Development Company, LLC for the development of 652,815+/- square feet of retail/ restaurant/ hotel space called Hamburg Crossings Retail Center; and,

WHEREAS, the applicant submitted a draft scoping document to the Town on July 25, 2007 outlining the content of the Draft Environmental Impact Statement (DEIS); and,

WHEREAS, the Town Board, as Lead Agency, held a public scoping session on August 1, 2007 to allow comment on the content and scope of the DEIS.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Hamburg Town Board, in accordance with SEQR, has established the attached final scoping document, incorporating the comments of Involved and Interested Agencies and the public, to guide the development of the DEIS; and,

BE IT FURTHER RESOLVED, that the applicant, Benderson Development Company, LLC, shall prepare a DEIS in compliance with the established scoping document.

4.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

WHEREAS, the Town of Hamburg has received an application for rezoning, special use permit, and site plan approval from Morada Bay Associates, LLC for the construction of a 139,410+/- square foot Lowe's Home Improvement Center and two outparcel developments; and,

WHEREAS, the applicant is requesting a rezoning of a portion of the 36.9 acre Lowe's site from Single Family Residential – Attached (R-2) and Residential Multi-Family (R-3) to General Commercial (C-2); and,

WHEREAS, the applicant submitted a Draft Environmental Impact Statement (DEIS) to the Town of Hamburg on June 18, 2007 for the proposed Lowe's; and,

WHEREAS, the Town Board, as Lead Agency, has reviewed the DEIS and, while not necessarily agreeing with all the conclusions of the document, has accepted it as complete for review by Involved and Interested Agencies on July 16, 2007; and,

WHEREAS, the Town Board previously established a public hearing regarding the DEIS and rezoning for September 10, 2007, however, the meeting was not advertised in compliance with SEQR.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board sets a public hearing to allow comment on the DEIS and on the proposed rezoning for September 24, 2007 at 7:15pm in the Hamburg Town Hall; and,

BE IT FURTHER RESOLVED, that the Town Board will accept comments on the DEIS through October 5, 2007.

5.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

WHEREAS, On June 4, 2007 the Hamburg Town Board authorized the Department of Community Development to release a Request For Quotations (RFQ) for the Domestic Violence “Exit Door Modification” project, and

WHEREAS, the quotes were opened on August 17, 2007 at 11:00 a.m. and subsequently reviewed by the Department of Community Development, and

NOW THEREFORE BE IT RESOLVED that the Hamburg Town Board authorize the Department of Community Development to accept the quote of and enter into a contract with L. Durfee Contracting, LLC to provide construction/rehabilitation services for the Domestic Violence “Exit Door Modification” project. Funding in the amount of \$17,995.00 is available in CD 30 8662.357 and CD 31 8662.357.

6.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

WHEREAS, the Town of Hamburg will receive federal Community Development Block Grant and HOME Investment Partnership funds for use in the 2008 program year, and

WHEREAS, citizen participation is requested in the development of community needs and to review past program performance.

NOW THEREFORE BE IT RESOLVED that the Hamburg Town Board authorize two (2) public hearings on the use of 2008 fiscal year Community Development Block Grant and HOME funding to be set for Wednesday, October 17, 2007 at 7:00 p.m. and Wednesday, November 14, 2007 at 7:00 p.m. in the Community Development Conference Room and that all appropriate notices be published.

7.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

WHEREAS, the Town of Hamburg received a rezoning application from New Era Cap Company, located at 4817 Lake Avenue, from —1 to C-2 so that New Era Cap Company can lease the existing building on the property to Inferno Baseball, Inc. a youth baseball/softball sports training facility and

WHEREAS, the Code Review Committee, at its August 8, 2007 meeting, reviewed the application and found merit in the rezoning of this property.

NOW, THEREFORE, BE IT RESOLVED, that the Hamburg Town Board hereby refers this application to the Planning Board for its review and recommendation.

**8.
WITHDRAWN**

9.
On a motion of Supervisor Walters, seconded by Councilwoman Kesner, the following resolution was

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board authorize advertisement for bids for one “Communications Console System” for the renovation of the Public Safety Dispatch Office. Said bids to be returnable and opened by the Town Clerk, Monday October 29, 2007 at 11:00 a.m..

10.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

BE IT RESOLVED, that the Town Board authorize the transfer of funds from the Trust and Agency Account (T37) in the amount of \$60,000 to A.7140.303, (Playgrounds and Recreation Centers-Permanent Improvement Account) to fund various capital improvements, including but not limited to the renovation of the Tennis Court at the Nike Base complex, labor and materials totaling \$26,177.10.

11.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

WHEREAS, William Larson, the owner of property located at 2283 North Creek Road in the Town of Eden (SBL No. 208.00-1-2), has applied to be a Fringe Customer to the Town of Hamburg’s 1989 Master Water Improvement Area (MWIA) for connection to the Town waterline that runs in front of his property, which was installed by the Town of Hamburg as part of the 1989 MWIA project; and

WHEREAS, the applicant has agreed to abide by the regulations governing Town of Hamburg Water Districts and to pay annual charges equivalent to the tax rate of the 1989 MWIA (SW-31), including frontage charges and assessed valuation charges associated with the remaining debt service for the 1989 MWIA,

THEREFORE BE IT RESOLVED that the Town Board, as Commissioners of the 1989 MWIA, approve the above parcel as a Fringe Customer to the 1989 MWIA, for connection to the Town of Hamburg waterline on North Creek Road.

12.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 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 Property Care & Enhancements of Collins, 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:

| Property Address | Date Completed | Amount |
|-------------------------|-----------------------|---------------|
| 4837 Gerber Parkway | 07/25/07 | \$ 80.00 |
| 5131 College Street | 07/23/07 | \$ 60.00 |
| 3684 Third Street | 07/24/07 | \$ 75.00 |
| 4292 Big Tree Road | 07/24/07 | \$ 75.00 |
| 3782 Cornell Street | 07/23/07 | \$ 65.00 |
| 3183 Trenton Road | 07/24/07 | \$ 70.00 |
| 217 Kenton Place | 07/23/07 | \$ 70.00 |

BE, IT FURTHER RESOLVED, the Town Board approve the transfer of funds from Account B599 to B3620.469 to finance this work.

BE, IT FURTHER RESOLVED, 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- 4 B.

Councilman Cavalcoli notes that there is a new surcharge added to this for administration costs in cleaning up these properties. He congratulates Supervisor Walters and the Building Inspection Department.

13.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board approve the appointment of ROBIN A. KOSMOWSKI to the full time position of POLICE CLERK (probationary) in the Police Department effective September 11, 2007. Ms. Kosmowski has met the Civil Service requirements for this position and is currently on the Civil Service list, established December 3, 2003, Exam #062606. Salary is \$14.54 per hour per CSEA White Collar, funds available in B3120.100.

14.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

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

Brent Kirchmeyer
5104 Bradford St.
Hamburg, NY 14075

15.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board approve the membership of the following into the Lake Shore Volunteer Fire Company:

| | | |
|------------------------|------------------------|--------------------|
| Loretta Ann Kitchens | Chris Kitchens | Joseph Barnack |
| 3450 Howard Rd. Lot 15 | 3450 Howard Rd. Lot 15 | 3085 Seaford Terr. |
| Hamburg, NY 14075 | Hamburg, NY 14075 | Hamburg, NY 14075 |

16.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board approve the appointment of JOSEPH S. PIETRAS to the position of full-time Recreation Supervisor-Sr. Citizens (probationary) in the Programs for Aging Department. Appointment effective September 17, 2007 but Mr. Pietras will be on a leave without pay and his start date will be September 24, 2007. Mr. Pietras has met the civil service requirements and is currently on the civil service list established August 2, 2004; exam #063586. Salary is \$23.23 per hour; funds available in A6772.100.

17.

On a motion of Councilman Cavalcoli, seconded by Councilman Smith, the following resolution was

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board approve the appointment of Deborah J. Urbanik to the Senior Citizen’s Advisory Board to fill the remaining term of Michael Murphy, Administrator of Lakewood Health Care who has been transferred to Cheektowaga.

Councilman Cavalcoli notes that Mike Murphy has relocated to another position and the Advisory Board has people from the various agencies such as Lakewood Health Care on the Board to make sure we have a very good and involved program for our senior citizens.

18.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board approve the hiring/termination of the following in the Buildings and Grounds Department as follows:

| | | | | |
|--------------------|----------------|---------|-----------|----------|
| Zahm, Charles | L.E.O. | \$21.85 | Terminate | 8/14/07 |
| Zahm, Charles | Laborer | \$21.29 | | 8/15/07 |
| Smith, Christopher | Laborer, Seas. | | Terminate | 8/17/07 |
| Nelson, Brett | Laborer, Seas. | | Terminate | 8/17/07 |
| Zeis, Clark | Laborer, Seas. | | Terminate | 8/15/07 |
| Rojek, Andrew | Laborer, Seas. | | Terminate | 8/15/07 |
| Granville, Patrick | Laborer | | Terminate | 8/30/07 |
| Granville, Patrick | L.E.O. | \$21.85 | | 08/31/07 |
| Vuich, Scott | Laborer | | Terminate | 8/30/07 |
| Vuich, Scott | L.E.O. | \$21.85 | | 08/31/07 |

19.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board approve the hiring/termination of the following in the Domestic Violence Department as follows:

| | | | | |
|-------------------|--------------------|--------|-----------|----------|
| Rodriguez, Maria | Clerk Typist P/T | | Terminate | 08/19/07 |
| Rodriguez, Maria | Clerk Typist Seas. | \$9.88 | | 08/20/07 |
| D'Amourix, Amanda | Clerk Typist | | Terminate | 08/13/07 |

20.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board approve the hiring of the following in the Police/DCO Department as follows:

Venti, Frank Dog Control Officer \$11.39 09/10/07
 Part time Seasonal

21.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board approve the termination of the following in the Dispatch (Police) Department as follows:

Lindstrom, Michael Public Safety Dispatcher Terminate 08/03/07
 Part time

Supervisor Walters notes that Michael Lindstrom retired several months ago, was working part-time for the Dispatch Office and has since decided not to do so.

22.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board approve the hiring/termination of the following in the Town Clerk's Department as follows:

Demarco, Hazel Clerk P/T Terminate 09/08/07
Demarco, Hazel Clerk P/T Seas. 09/10/07 \$12.55

| | | | |
|-------------------|-----------------|-----------|----------|
| DeJames, Marjorie | Clerk P/T | Terminate | 09/08/07 |
| DeJames, Marjorie | Clerk P/T Seas. | 09/10/07 | \$10.59 |
| Kellerman, Sharon | Clerk P/T | Terminate | 09/08/07 |
| Kellerman, Sharon | Clerk P/T Seas. | 09/24/07 | \$11.04 |

23.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

WHEREAS, in accordance with the provisions of Local Law No.5-1972, Sections 80-3, the Town Board based on their determination, ordered the demolition and complete removal of the fire damaged structure and to secure the remaining vacant buildings on the premises with the appropriate enclosures as located on the premises of 1748 Schoellkopf Road, and

WHEREAS, the Town Code Enforcement Official administered the demolition of said property including the necessary remedial work to render the property free of known hazards and has certified that the defined scope of demolition and associated work as being completed.

THEREFORE BE IT RESOLVED, that the Town Board approve the following invoices for the payment for work completed at 1748 Schoellkopf Road by Monckton Trucking of Lakeview, New York as follows:

| Description | Amount |
|--|---------------------|
| Emergency structure demolition, refuse disposal, back fill & grading | \$ 10,600.00 |
| Board-up enclosures to secure barn structure and remaining cottage | \$ 1,200.00 |
| * Total Costs ----- | \$ 11,800.00 |

* Represents additional costs to be included in the Town’s claim against the property

owner for reimbursement.

BE, IT FURTHER RESOLVED, the Town Board approve the transfer of funds from Account B599 to B3620.469 to finance this emergency work.

BE, IT FURTHER RESOLVED, the Town Board authorize the Town Attorney to institute the appropriate actions against the property owner of 1748 Schoellkopf Road for recovery of costs incurred by the Town in connection with these proceedings as provided by Local Law No. 5-1972.

24.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, the Town Board grant permission for Ashley McNamara a student at Hamburg High School to do an Internship in the Building Inspection Department at no cost to the Town.

25.

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

TABLED Ayes: 4 Cavalcoli, Kesner, Quatroche, Smith
 Noes: 1 Walters

WHEREAS, the members of the town board, in order to effectively conduct the business of the town and discharge their duties as elected officials, must have free and unfettered access to town records, files, papers, etc.; and

WHEREAS, town department heads do not have authority to deny access to records, files and papers relating to the town; and

NOW THEREFORE BE IT RESOLVED, department heads are reminded, ordered and instructed to that they are not to restrict access to any record to any member of the town board in any way; and

BE IT FURTHER RESOLVED, that this resolution is made by the town board with the explicit understanding that board members are bound to confidentiality provisions of the New York State Public Officers Law and the Town of Hamburg Code of Ethics.

Ferd Garcia questions if this applies to anything that the Freedom of Information Act applies to or does it go beyond that.

Supervisor Walters notes that it goes beyond that because as Town Board members they have access to information that the public would not have access to under the Freedom of Information Law.

Ferd Garcia notes that the Assessor's Office has a lot of private information on individuals that is supplied for the STAR Program.

Supervisor Walters responds that there is two things that needs to be looked at, first it has to be Town records relating to Town business. Second, the Town Board members are under confidentiality requirements just as anyone in the Assessor's Department.

Councilman Cavalcoli notes that he has strong concerns about this resolution. First because normally this type of an action is handled through a Town Board Directive. This is a policy issue, this is not something normally done with a resolution. Secondly, there doesn't seem to be those kinds of controls. There are very confidential information in certain departments that could be harmful to people if that got into the wrong hands. While Town Board members should be held to confidentiality, there is still a serious concern.

Supervisor Walters comments that Town Board members are subject to provisions, however the court case is and the Law itself does provide that Board members do have free unfettered access to files. The purpose for this resolution coming out is because a department head submitted to the Town Board that he would not provide free and unfettered access to his records and cited certain provisions of the New York State Law as his justification for doing so. Even though those provisions of the Law were cited incorrectly. There really has to be some official weight behind this.

Councilman Smith notes he also has some concerns about the privacy issue. There are a lot of confidential records involved, and the Town Board is sworn to oath to follow a code of ethics. He also notes that every once in awhile information gets out on blogs that he hasn't seen. He would like this issue addressed and how guaranteed confidentiality for all of the employees and the residents that have records on file inside out Town Hall.

Richard Boehm suggests that one of the problems he sees with this is there are very confidential records. He would like to get an opinion from the Attorney General and the Comptrollers Office, the Association of Towns plus the Bar Association as to the ethics behind this and requests to table this while he gets this information. Maybe this resolution just needs to be cleaned up and become more specific.

Councilman Cavalcoli notes that he would like to see some language and he doesn't disagree with the Supervisor that as Town Board members running this Town and with the staff should have a right to review information. He's not sure that there should be total access without some

kind of control especially in sensitive areas of where there could be some danger to the individuals. Possibly a policy for logging in and out if these files are taken. There needs to be some accountability for these records.

Supervisor Walters suggest that there should be some accountability. He would have a problem with not going forward with the resolution on this tonight because there will be Town business conducted tomorrow and the day after. If there continues to be restricted access to files that the Board members need to review.

Councilman Cavalcoli notes that in the case of the Legal Department not being supplied that information the Supervisor Walters was given total freedom to come in and look at the files and discuss the files and have them explained to him, that's what was told to him when he questioned it.

Richard Boehm suggests one of the Board members make a motion to table this matter.

Supervisor Walters responds that one thing Councilman Cavalcoli said with respect to the Legal Department, what was said was that files could be reviewed with the Town Attorney, in his presence, in reality the Town Attorney is not a full time employee, he's not here all the time.

Councilman Quatroche comments to the Supervisor that he seconds this motion because he does agree with the spirit of this resolution and thinks that as Town Board members, it's appropriate that access is granted for Town files. There are situations where, for instance personnel files, Town employees wouldn't want and individual Town Board member to remove a file from that office. It would be prudent to clarify those types of things. He is very strongly in support of this resolution, as Town Board members, there should be access to files with regard to Town business. Maybe there needs to be a policy developed and approve that, that should be done in a short order of time, maybe a week.

Supervisor Walters comments to do it right now. If a Department Head feels it's confidential and shouldn't be released they should be able to petition the Town Board. Whether a Department Head likes it or not were the Board members we have access to the files, that's what the Law states.

Councilman Quatroche notes that he is not disagreeing with him on that specific instance, all he's saying is that there are other instances of records, that he's not sure that they would have access to some of the records. He is in support of this resolution in spirit, they should make sure they dot their I's and cross their T's on this one, because you can really open up Pandora's Box to allow future potential situations which may be legally detrimental to the Town down the road.

Councilman Cavalcoli makes a motion to table this resolution.

the Supervisor is authorized to sign the contract. Funding for these services is available in Account 1680.100.

Councilwoman Kesner notes that she has wanted and IT internal auditor in the Town for several years and is glad to finally see it happening.

Supervisor Walters agrees that this is long overdue.

28.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board authorize the Supervisor to sign service agreement with Healthways Health Support, Inc. This partnership will benefit the Town by having individuals within the Healthways network referred to our Fitness Center. In addition, Healthways will reimburse the Town for each membership. There is no cost to the Town for participating in this program. The legal department has received the documents and approved them as to form.

Councilman Quatroche notes that this company works with insurance companies as some insurance companies do cover individuals for health memberships we haven't typically had access to those folks. So this will allow us to give access to the fitness center, any questions can be forwarded to the Recreation Department.

29.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

WHEREAS, pursuant to a Court Order signed by the Honorable John M. Curran, the Town of Hamburg is ordered to provide Parise Mechanical, Inc. with an opportunity to respond to any finding or allegation of "non responsibility" under General Municipal Law Section 103, concerning the recent bid for HVAC Upgrades in Town Hall, and

NOW THEREFORE BE IT RESOLVED, that the Town Board designates Highway Superintendent Jim Connolly and one Town Board member to represent the Town of Hamburg at the court ordered meeting.

30.

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

| | | |
|---------|------------|--------------------------------------|
| ADOPTED | Ayes: 4 | Walters, Cavalcoli, Quatroche, Smith |
| | Noes: 0 | |
| | Abstain: 1 | Kesner |

WHEREAS, Chief of Police Joseph Coggins retired effective June 30, 2007, leaving a vacancy in a critical position in the town,

THEREFORE BE IT RESOLVED, that Assistant Chief of Police Carmen Kesner be appointed Chief of Police (Provisionally), effective September 10, 2007.

Councilman Cavalcoli notes that the position has not been empty, Assistant Chief Kesner with the official title however, he was the acting Chief of Police during that period of time. Carmen has been doing an outstanding job, the Town Board appreciates your efforts during that period of time, and it's with great honor that they move on this resolution and get him in provisional. That requires a test coming up down the road to make it a permanent position.

Joe Killian questions if the Town Board has made a decision on making it a salaried position yet.

Councilman Cavalcoli notes that this is under consideration, they are looking at all aspects of that.

31.

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

| | | |
|---------|---------|--|
| ADOPTED | Ayes: 5 | Walters, Cavalcoli, Kesner, Quatroche, Smith |
| | Noes: 0 | |

RESOLVED, that the Town Board approve the hiring/termination of the following in the Adult Day Services Department as follows:

| | | | |
|--------------------|---------------------|-----------|----------|
| Fittry, Karen | P/T Seas. Rec. Att. | Terminate | 07/05/07 |
| Fittry, Karen | P/T Rec. Att. | 07/05/07 | \$7.69 |
| Felice, Laureen | P/T Rec. Att. | Terminate | 09/10/07 |
| Felice, Laureen | P/T Seas. Rec. Att. | 09/10/07 | \$9.58 |
| Wheelock, Patricia | P/T Rec. Att. | Terminate | 09/10/07 |
| Wheelock, Patricia | P/T Seas. Rec. Att. | 09/10/07 | \$9.83 |

32.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board authorize advertisement for bids for one “new and unused 2008 4X4 medium duty truck (F-450 or equiv.) with dump body and 9 foot western boss reversible plow” for the Town of Hamburg Buildings and Grounds Department. Said bids to be returnable and opened by the Town Clerk, Monday, September 24, 2007 at 11:00 am.

33.

On a motion of Councilman Cavalcoli, seconded by Councilman Smith, the following resolution was

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, the Town Board grant permission for the Police Department to advertise for one (1), **Used** 2007 Ford Taurus. Price to include trade in of one vehicle.

34.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

BE IT RESOLVED, upon the recommendation of the Traffic Safety Advisory Board, that the Buildings and Grounds Department erect and maintain the following signs:

R1-1(STOP), R1-3 (ALL WAY) and W2-15 (STOP AHEAD)at Columbia/Pittsburg, Durham/Windsor

R1-1(STOP) at Pincherry/White Oak Way

TH1-1(BE A GOOD NEIGHBOR) at Beachwood/Old Lakeshore Rd.

W7-5 (PLAYGROUND) on White Oak Way

AND BE IT FURTHER RESOLVED, that DEAF CHILD AREA signs be removed from 4226 LaSalle and 5840 Lakeview Terrace, since the deaf child has either moved or reached 18 years of age.

35.

On a motion of Councilman Cavalcoli, with a unanimous second, the following resolution was

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

A proclamation celebrating Hamburg High School Class of 1957 and its 50th reunion

36.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

A proclamation recognizing Steve Strnad’s 80th birthday, as well as, recognizing his many accomplishments. Most importantly, Steve Strnad has proven himself to be a dependable, hardworking and trustworthy colleague, friend and family member to all those he came to know. In recognition to all the accomplishments Steve Strnad has to his credit and all the lives Steve Strnad has touched during his first eighty years of his life, the Town of Hamburg hereby declares that Sunday, August 4, 2007 be forever known in the Town of Hamburg as “Steve Strnad Day”.

Councilman Cavalcoli compliments Steve Strnad for his public service in every aspect from being an advocate for projects, being a critic to projects, making the Board look hard at things, supporting when things are done right, but most of all, Steve has dedicated himself to the community.

Councilman Quatroche adds that there has been many days when the room wasn’t as full as it now and many of the other taxpayers with Steve have come religiously to the meetings.

Steve Strnad adds that he wouldn’t change anything for the world, he found a great deal of pleasure doing all that he’s done.

37.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

AUDIT OF CASH DISBURSEMENTS

| | | | VOUCHER #'S |
|-----------------|-----|----------------|-------------|
| OPERATING FUND: | | | |
| BATCH # | 107 | \$664,355.75 | 20747-20891 |
| BATCH # | 108 | \$1,500,000.00 | 20894-20896 |
| BATCH # | 109 | \$68,718.76 | 20897 |
| BATCH # | 110 | \$53,150.06 | 20905-21025 |
| BATCH # | 111 | \$288,132.25 | 21032-21128 |
| BATCH # | 112 | \$475,000.00 | 21131 |
| BATCH # | 113 | \$427,706.79 | 21135-21210 |
| BATCH # | 114 | \$1,450.00 | 21211-21213 |
| BATCH # | 115 | \$37,332.48 | 21215-21297 |
| BATCH # | 116 | \$365,370.65 | 21298-21339 |
| BATCH # | | \$93,503.26 | UNPROCESSED |
| BATCH # | | | |

TOTAL OPERATING FUND DISBURSEMENTS:

\$3,974,720.00

TRUST & AGENCY:

| | | |
|---------|----|--------------|
| BATCH # | 34 | \$537,772.66 |
| BATCH # | 35 | \$22,034.35 |
| BATCH # | 36 | \$560,827.78 |
| BATCH # | 37 | \$13,088.12 |
| BATCH # | 38 | \$230,067.64 |
| BATCH # | 39 | \$510,883.97 |
| BATCH # | 40 | \$16,916.99 |
| BATCH # | | |

TOTAL TRUST & AGENCY DISBURSEMENTS:

\$1,891,591.51

CAPITAL FUND DISBURSEMENTS:

| | | | |
|---------|----|--------------|-------------|
| BATCH # | 51 | \$825,000.00 | 20745-20746 |
| BATCH # | 52 | \$485,000.00 | 20893 |
| BATCH # | 53 | \$53,424.65 | 20898-20904 |
| BATCH # | 54 | \$34,317.17 | 21026-21031 |
| BATCH # | 55 | \$480,000.00 | 21129 |

| | | | | |
|---------|----|--------------|-------------|----------------|
| BATCH # | 56 | \$17,351.58 | 21132-21134 | |
| BATCH # | 57 | \$420,000.00 | 21214 | |
| BATCH # | 58 | \$921.15 | 21340 | |
| BATCH # | | \$19,634.70 | UNPROCESSED | |
| BATCH # | | | | |
| | | | | \$2,335,649.25 |

TOTAL CAPITAL FUND DISBURSEMENTS:

PAYROLL:

| | | |
|------|----|--------------|
| PR # | 16 | \$519,158.05 |
| PR # | 17 | \$530,924.34 |
| PR# | 18 | \$493,985.86 |

TOTAL PAYROLL DISBURSEMENTS:

\$1,544,068.25

| | | | |
|------------|--------|----|------|
| PETTY CASH | \$0.00 | \$ | 0.00 |
|------------|--------|----|------|

TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT:

\$9,746,029.01

Reports From Town Board Members and Department Heads

Catherine Rybczynski reads a letter addressed to the Town Board Members from Raymond Pawlowski and Amy McKnight.

Councilman Smith comments that this has been in litigation for six years and the Town Board has nothing to do with this litigation. It's between the individual members of that fire department and all the involvement through their audits themselves and their investigations. If it

was interpreted that he ever said the word “stolen”, he apologizes. There are charges of misuse of gasoline and that is up to the fire department to follow through not him as a Town Board member. It’s a Big Tree Fire Department issue he doesn’t feel it’s a Town Board issue.

Councilman Cavalcoli notes it’s been a long summer and awhile since the last Town Board meeting, he looks forward to working with the supervisor and his colleagues on the board with the upcoming budget. He would like to turn the floor over to Councilwoman Kesner, she has an event coming up this week.

Councilwoman Kesner notes that Wednesday, September 12th the Big Band on the Beach with the sunset at 6:30 - 8:30 pm. There is a shuttle available set up at the Cloverbank Elementary School, that starts at 5:30 pm. The senior groups are part of the concessions with food, beverages available. All of the profits from those sales will go to their activities. Arrangements have been made to move the stage back so there’s plenty of room for dancing. Also, the Domestic Violence Advisory Committee is hosting a luncheon on Saturday, October 6th at the Brierwood Country Club. Many survivors of our Town will be honored. Tickets will be \$30.00.

Councilman Quatroche reports that watching the top and bottom line of the Recreation Department, and they’re about 10% of last year in revenues. Marty and his leadership in the Recreation Department is doing a great job.

Supervisor Walters reports that Tuesday at 7:00 pm at the Town Hall will be the Town’s September 11th Memorial Ceremony. Students from both Frontier and Hamburg High School will be on hand. It should be a very nice ceremony to commemorate the sixth year anniversary of that tragic event. If the weather is too bad, everything will be moved inside. Secondly, there is a Domestic Violence Fundraiser on Sunday, September 16th at Oakwood Manor. The event is being sponsored by Town Clerk, Catherine Rybczynski, Town Board Candidates, Vinny Gugliuzza, Tom Best and Kevin Smardz. It’s great that everyone is getting together for such a good cause. Tickets are \$10.00. Thirdly, about two months ago, a resident of our Town and childhood friend, had her second baby. About a week ago she went into cardiac arrest. Has since been in a coma with medical bill piling up. Her name is Lisa Charlap and her family is having a fundraiser for her on November 11, 2007, tickets are \$30.00. It will be held at Lucarellis Banquet Center, Abbott Rd in Lackawanna.

Catherine Rybczynski thanks Supervisor Walters for announcing the Domestic Violence Fundraiser and notes there is one more person sponsoring it, Walter Rooth. Passport pictures are now being taken in the Clerk’s Office, the cost is \$8.50. Also, the tax bills are now online if you go the Town’s website. You can view your tax bills, later this week you will be able to pay by credit card.

Marty Denecke reports that the Extreme Softball Program is a girls softball program. They have put forth a proposal to the Town to improve the Osborne playground that includes two ball diamonds. Their proposing to put in all the labor and supplies both on the diamond and in the

building that's located on the premises. The proposal was reviewed by the Advisory Board on August 14th and based on that they favored the project.

Councilman Quatroche notes there are some legal considerations that will be discussed in Executive Session.

George Lee reports that the National Night Out was a great success, thank you to the Town of Hamburg, and the Sun for the nice write up. It was one of the best they ever had. Christmas in December was real nice, Recreation is doing terrific and the Department of Public Works is one of the best departments in the village they keep the streets clean.

Reports From The Public

Elliott Casper with the Extreme Softball Group, is concerned because the season is almost over. An answer is needed so the work can get done this fall in order for the growing season in the spring. There will be about four weeks of work to be done for the coming baseball season in the spring.

Councilman Quatroche notes that they are going to move as quickly as possible, they're trying to figure out what sort of legal arrangement can be made. He is hoping within a week or two at the latest.

Councilman Smith reports that there has been some questions on parking and dust control that need to be addressed.

Joe Killian questions if there has been an agreement with Steel Winds on the windmills.

Supervisor Walters notes that right now they're in their very beginning stages of the planning process. No they're not to that point yet. As soon as they are to that point they will let everyone know what is happening with that.

Councilman Cavalcoli responds that they're well along in the planning process and it's too early to address that right now.

Joe Killian report that he thought they would be laying asphalt for the bike trails in September.

Councilwoman Kesner responds that she was on the phone today about it and they're wrapping up the final details with the D.O.T. An answer is anticipated in about a week.

Tom Best, Sr. commends the Town Board on the choice of Chief of Police, he has worked with Carmen for over 30 years. There appears to be a big deal of concern with regards to a resolution on the Foit property. He asks the Board to come up with a resolution, put it on the November ballot and let the people vote on it.

Councilman Smith responds that there is a lot of misinformation on that property. The Foit's property is not owned by the Town. It's owned by a private individual that has a liability outstanding of back taxes and demolition charges. Until such time the Town can get some legal answers out of the owners, the Town does not own it so therefore, that issue is really out of order.

Supervisor Walters responds that he has always favored giving the people more of an opportunity in this. Whether there is something we can do to get this on the ballot this November. They are going to push forward with this project. Let's hear what the people have to say now and let's eliminate all the work that would have to continue to be done if this was voted down anyways.

He would like legal to look into that.

Councilman Quatroche notes he thinks there has always been a desire for that property and building obviously to come down. It got to a state where legally it could be demolished because it was in such a state of disrepair. In addition to that, there has been many proposals for that property from private business owners and many of those proposals had serious financial questions as to people's ability to do that. If the owner had no interest in talking to those

individuals and so, he pursued a grant that is non Town of Hamburg dollars to pursue that. If we do go to a public project on this, that the project is completed within those dollars. Then additional grants can be sought. He never proclaimed that we ever use Town dollars there has been misinformation out there about the cost of the project. A grant proposal was submitted for a plan for that project, so that we could seek grant funding, but it doesn't mean that we do it unless we get grant funding. There has been private interest in the project.

Councilman Cavalcoli questions what Supervisor Walters sees as the nature of the referendum, what would be the referendum proposal.

Supervisor Walters responds that it is his understanding that in order for the Town to purchase the property it's subject to permissive referendum. There may be time to get it on the November ballot.

Councilman Cavalcoli questions how you can have referendum on something that the Town doesn't own.

Kevin Smardz questions the plan of financing the property, The Buffalo News quoted that it's a \$250,000 project and you may have possibly a \$250,000 grant from the State. If the grants aren't achieved then the Town will not pursue the parkland.

Councilman Quatroche responds that the grant proposal talked about a lot of different things for that property in making that a park. Some grants you actually have to own the property in order to apply for additional money. The article just didn't give the detail of what that amount was. The amount was a grant proposal submission that was made and the \$250,000 take it to the first phase of the project. The details have not been decided on as of yet. The issue was to try to acquire the property so that it would be forever green.

Kevin Smardz questions if any Hamburg tax dollars will be used.

Councilman Quatroche responds the will not be any except for cutting the lawn.

Councilman Smith notes that it has been a long legal hassle because of the dollars involved. We have to remember that it's private property and anything that is done in that like back taxes and demolition costs are shipped to the County. The County then reimburses the Town and School for outstanding taxes and liens. The grant that is being talked about is a \$250,000. allotment when he left the assembly, assemblyman Quinn is holding on to that money for the Town of Hamburg. Should we get to the point where the Town purchases it, the owner may tomorrow morning sell it to someone else. They may want to put a building there, that's their decision. But they are going to have to satisfy the County with the money outstanding for back taxes and demolition costs.

Joe Killian adds that it will be qualified by tax dollars, just not Hamburg residents.

Councilwoman Kesner adds that she sat at a meeting with the Department of State and the DEC and there are various grants that are available for waterfront development to secure public access to community residents. In the northtowns, Tonawanda and Niagara on the Lake those communities are so active to developing as much of the waterfront that they can for their citizens for public access. The real issue is if we don't get it, they get it. It's not like it goes back into the general fund. She is happy to see that thing down, it was an eye sore and a hazard. Councilwoman Kesner commends Councilman Smith for the initiative for finally getting that eye sore down. The goal is to see it a public access part of the bike trail.

Joe Killian questions that if the owner was interested in purchasing this and putting it back on the tax rolls will the Town consider this?

Councilwoman Kesner responds that they will look at everything and every option but they're not there yet.

Councilman Cavalcoli notes that another big problem with the property is that it's quite narrow, there are restrictions like the set back from the highway right of way. The coastal management set back because of the waters edge and the wave action.

Raymond Pawlowski questions if the Town Board is going to entertain an audit from the state comptroller.

Supervisor Walters responds that the Deputy Town Attorney has indicated that he has information regarding that and the Town Board has requested that he recopy that to the Town Board.

Ray Pawlowski notes that the Town sponsored a mediation on August 29th and cancelled.

Councilman Cavalcoli responds that at this point the question being asked, the Town Attorney said we have an answer, he will provide them with that information as to whether we have a right to proceed or we have a responsibility to proceed. Tonight the answer can't be given.

Ray Pawlowski responds that the problem with that his interpretation of the general municipal law is different than the Deputy Attorneys.

Councilman Cavalcoli notes that they are commissioners of fire districts, they do not control budget lines or operations. They do fund a portion of that money through the tax base.

Ray Pawlowski comments that they do take care of budgets, you tell fire companies how much they get.

Joe Killian questions if there will be a building put there or left as a seaway vista. He notes that his taxes have never gone down. This might be a nice start for a gateway.

Councilman Cavalcoli comments that the once you start looking at the dollars that come in from the State and Federal level if this project wasn't done, the money would go someplace else.

Joe Killian responds that typically he's against grants but since they have our money already.

Supervisor Walters comments that the IDA rejects probably nine out of ten applications it gets. We take a very close look in Hamburg, as to what the project is, what the benefits both direct and incidental on the Town and if the benefits aren't there, the IDA Board does not approve the project. You can take a look at the projects that have been approved in the last year and a half and see. The State Comptroller has said that Hamburg does have a very good track record in meeting the goals it does set.

Joe Killian comments that they only see the one they've given out, not the ones that were rejected.

Supervisor Walters notes that he has some statistic in his office if Joe would like to stop by and review them.

Pat McAnaney reminds the Town Board that Woodlawn is a part of the Town of Hamburg and talk about a gateway, it's probably two miles down the road from Woodlawn.

Councilwoman Kesner notes she did the Woodlawn revitalization corporation they fixed 68 homes, they have gardens in there and extra traffic lights. She notes they are committed to Woodlawn too. It seems like they have to take a look at that residential strip as well, because that has been neglected.

Councilman Quatroche notes that the Army Corp of Engineers is doing that project there also. The Woodlawn/Blasdell creek.

Councilman Smith agrees that it shouldn't be called a "gateway", it should be a waterfront development project.

Tim Ellis notes that the idea of a gateway is really a legacy of that traffic.

Ford Beckwith notes that for the last couple of weeks he has gotten a lot of phone calls from a lot of members of his party over concerns with the Town Attorney's office and the members of the Police Department. He can only relay what he's been told, he has no proof of any of it. He asks that the Town Board gather the members of the union for the Police Department, and certain members of the Police Department, to find out what the problems are between the Town Attorney and the Police Department. He's being told that there is an increasing level of mistrust between the Police Department and the Town Attorney's Office. He notes that if this is the case, he asks the Town Board take the appropriate action to correct the problem, replace the Town Attorney with someone who is more willing to cooperate with the Police Department.

Councilman Cavalcoli responds that as the liaison to the Police Department, he will sit with the Chief and will make the proper inquiries. In the past this has not been an issue to his knowledge. But he will look into it and discuss it with the Board and the Town Attorney's office and the Police Department.

Ford Beckwith responds that he appreciates Councilman Cavalcoli's concern and stressed that all he can report is what he's been told and he cannot verify that any of it is true because it's second hand.

38.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board move into Executive Session at 8:50 p.m.

39.

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

ADOPTED Ayes: 5 Walters, Cavalcoli, Kesner, Quatroche, Smith
 Noes: 0

RESOLVED, that the Town Board adjourn at 10:30 p.m.

Catherine A. Rybczynski, Town Clerk