

Meeting No. 12
September 13, 2004
Hamburg Town Board Meeting
S-6100 South Park Avenue
Hamburg, N.Y. 14075

Supervisor Hoak calls the meeting to order at 7:00 p.m.

Roll Call:	Patrick H. Hoak	Supervisor
	D. Mark Cavalcoli	Councilman
	Kathleen C. Hochul	Councilwoman
	Joan A. Kesner	Councilwoman
	Thomas Quatroche, Jr.	Councilman

Also Present:	Catherine Rybczynski	Town Clerk
	Richard Boehm	Deputy Town Attorney
	James Spute	Finance Director
	Gerard Kapsiak	Town Engineer
	Joseph Coggins	Police Chief
	James Connolly	Highway Superintendent
	Tim Ellis	Traffic Safety Consultant
	Christopher Hull	Director of Community Development
	Drew Reilly	Planning Consultant
	Kurt Allen	Supervising Building Inspector
	Fred Kingsbury	Real Property Appraiser

The Pledge of Allegiance was recited.

Information on Fire Exits was provided.

Supervisor Hoak asks Martin Moot to come forward for a special presentation. The entire Town Board feels that special recognition should be given to Martin Moot. He then reads the following proclamation.

Mr. Moot comments that at the convention that was held in the Village of Hamburg, the Supervisor and the Town Board were invited guests. After they left there were other people that were honored from the Village of Hamburg, Russ Warhol was named the Eagle Scout of the year for the County, one week late he was awarded the Eagle Scout of the Year for the District. The competition includes 45 Legion Posts throughout the County and over 100 in the District. Also at that meeting Dennis McCarthy was elected as a Vice-Commander of Erie County and was also appointed by the State of New York to be the membership Chairman for the seventh and eighth District. He is proud of this recognition, but feels they should be mentioned also.

7:15 p.m. Public Hearing for an amendment to said Zoning Code for property located on the corner of Dorchester Parkway & McKinley Parkway to be rezoned from C-3 to HC.

Catherine Rybczynski, Town Clerk, reads the following notice as published in the Hamburg Sun and the Front Page:

LEGAL NOTICE
TOWN OF HAMBURG

PLEASE TAKE NOTICE that there has been presented to the Town Board on August 12, 2004, pursuant to the Municipal Home Rule Law, a proposed local law to be known as proposed local law #7, 2004; said local law provides for the amendment of Local Law #10, 1986, Chapter 280-Zoning and provides substantially as follows:

For the adoption of an amendment to said Zoning Code for property located on the corner of Dorchester Parkway & McKinley Parkway. The property is to be rezoned from C-3 (Office District) to HC (Hamburg Commercial District) and further described as follows:

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

BEGINNING at the northeasterly corner of Subdivision Lot Number 92 as shown on a map filed in the Erie County Clerk's Office under Map Cover 925, said point being on the centerline of Dorchester Parkway; THENCE south along the easterly line of said Subdivision Lot Number 92, said line being at right angles to Dorchester Parkway, a distance of 233.00 feet to the southeasterly corner of Subdivision Lot Number 92; THENCE westerly along the south line of said Subdivision Lot Number 92 and parallel with Dorchester Parkway, a distance of 149.32 feet, more or less to a point in the easterly line of McKinley Parkway as described in a deed recorded in the Erie County Clerk's Office in Liber 2667 of Deeds at Page 426; THENCE , northerly along the easterly line of McKinley Parkway, a distance of 233.04 feet, more or less to a point in the centerline of Dorchester Parkway; THENCE easterly along the centerline of Dorchester Parkway, a distance of 154.36 feet, more or less to the place or point of beginning.

THEREFORE, pursuant to the statutes and the provisions of the Municipal Home Rule Law, the Town Board of the Town of Hamburg will hold a public hearing on September 13th, 2004 at 7:15 p.m. (Local time), at which time all interested persons may be heard.

Dated: August 12, 2004

Catherine Rybczynski
Town Clerk
Town of Hamburg

Drew Reilly comments that they already held a public hearing so the presentation will be brief. There is no correspondence on this. They did get a recommendation from the Planning Board four years ago. Basically as an implementation action this area was recommended for H-C Zoning. They held a public hearing, but there was no action taken by the Town Board. There was an application for this property to be rezoned C-1. The Town Board heard public comment and came back to him and the applicant and said they would not like to rezone to C-1. In accordance with the comprehensive plan and the recommendations in the past, they recommended that it be changed to H-C. They also looked at amending the H-C zoning District to include banks. They held that public hearing and they are proposing to amend H-C. They chose H-C because the Master Plan, Comprehensive Plan and the Town Board's thought that they didn't want to see the expansion of heavier uses down that corridor. The Town thought there should be a new zoning district and so they created the H-C that would be more of a compliment to that area which has residential behind it, but more of a commercial flavor.

Supervisor Hoak opens up for public comment.

Hank Kilmain, 4537 Dorchester, this will be right in his backyard. He questions which bank are they planning to put there. Mr. Reilly comments that the proposal is for a small local regional bank. If they change this to H-C they have to consider what other uses may go on the property. That is why they were concerned about the C-1 zoning, it opened it up for too many things. The proposal is for a bank, but they should also look at the list of allowed uses because either the bank may not be built or something else may come in, in the future.

Councilman Cavalcoli comments that speaking from both the Planning Board's and the Town Board's point of view, the reason they rejected the C-1 is because they didn't want to allow larger structures and would have more traffic impacts and after the public hearing and hearing the residents comments and concerns they already know that there are traffic issues there that need to be worked on and resolved no matter what happens to the property. Also the fact that the H-C is in the Master Plan and Comprehensive Plan and they didn't want to deviate from that. So they went back to Mr. Liberatore and they said that the only rezoning that the Town Board would consider is H-C. They had already discussed putting banks in the H-C because there are small regional banks that people go to to serve their needs and that is why they downgraded this to the H-C.

Mr. Liberatore comments that the bank will be Jamestown Savings Bank.

Mr. Kilmain questions if it is rezoned H-C how far from his property line do they have to stay.

Councilman Cavalcoli comments that there are restrictions and he asks Mr. Reilly to address that.

Mr. Reilly comments that within the zoning itself there is a minimum requirement of 30 feet. However, the McKinley Park Overlay requirement is to have proper screening put up so that you can't visibly see between the two properties. So, the McKinley Park Overlay also talks about having screening for the adjoining residential properties. So the applicant will have to come to the Planning Board to meet all these requirements.

Mr. Kilmain questions what kind of screening would be used.

Councilman Cavalcoli comments that this would be discussed during the Planning Board meetings which are open to the public. When that project actually comes in they have to meet all the criteria in that zone and then it will be worked out according to the codes and regulations and that is open to public input. Mr. Reilly comments on the options available through the code.

Councilwoman Kesner comments that the height of buildings allowed in the H-C zoning would be one story, what is allowed in a C-3. Drew responds that this allows for five or six stories. Councilwoman Kesner comments that this is her concern with the present zoning he could have a five story building next to him as opposed to a one story. Drew comments that you are actually allowed a 30 foot structure, the applicant is proposing a one story.

Councilwoman Hochul comments that you are getting the most protective zoning in Hamburg between the McKinley Overlay, which gives this protection aesthetically and the type of businesses and the H-C also limits the size to 6,000 sq. ft. and there is a lot of protection for adjoining neighborhoods. They feel that this is the most appropriate zoning for this stretch because of the close proximity of the neighbors. They listen to the residents very carefully as to what they want and in her opinion he can pick out the fence he wants.

Mr. Reilly comments that they have allowed banks up to 10,000 sq. ft., however, the size of the building must fit the site and meet all the requirements. They are not approving the action they are approving the zoning and then it is up to the applicant to make it work.

Mr. Kilmain comments that he is still concerned about the traffic. Supervisor Hoak comments that possibly this can be addressed with the changing of seven corners.

II.

RESOLVED, that the Town Board close the public hearing at this time.

Moved: Hoak

Seconded: Cavalcoli

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

III.

BE IT RESOLVED, that the proposed modification to the Zoning Code of the Town of Hamburg involving the Amendment to the H-C Zoning District be removed from the table.

Moved: Cavalcoli

Seconded: Quatroche

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

IV.

WHEREAS, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Town Board has reviewed the proposed modification (H-C Hamburg Commercial Zoning District – allowing Banks by SUP) to the Code of the Town of Hamburg, Chapter 280 – Zoning, and

WHEREAS, the zoning modifications will not adversely affect the natural resources of the State and/or the health, safety, and welfare of the public, and are consistent with social and economic considerations:

THEREFORE BE IT RESOLVED, that the Town of Hamburg has determined that the proposed modification to Chapter 280, Zoning is not anticipated to result in any significant effect on the environment, and that a Negative Declaration (Notice of Determination of Non-Significance) is hereby issued, based on the following reasons:

1. The modifications are in conformance with the adopted Hamburg Comprehensive Plan;
2. The modification to the Zoning Code will have no direct physical impact on the natural, manmade, or environmental resources of the Town;
3. The zoning modification allows a similar use to other uses in the District, and requires a Special Use Permit that is intended to protect surrounding residential areas, and ensure proper traffic management.

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

Moved: Cavalcoli

Seconded: Hochul

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

V.

WHEREAS, the Town of Hamburg has researched, developed and made a modification to the Code of the Town of Hamburg, Chapter 280 – Zoning, which involves the Amendment to the HC – Hamburg Commercial Zoning District to allow banks by Special Use Permit, and

WHEREAS, the Town Board has held the required Public Hearing on August 9, 2004, and received no adverse comments, and

WHEREAS, in compliance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Town Board has issued a SEQRA Negative Declaration.

THEREFORE BE IT RESOLVED, that the Town of Hamburg hereby adopts the proposed modifications to the Code of the Town of Hamburg, Chapter 280 – Zoning, based on the following reasons:

1. The modifications are in conformance with the Town of Hamburg Comprehensive Plan.
2. The proposed addition of banks being allowed by Special Use Permit, is in accordance with the intent and objectives of the HC District.
3. The requirements of the Special Use Permit will help to ensure that the proposed use meets the intent and objectives of the District.

BE IT FURTHER RESOLVED, that the Planning and Legal Department be directed to produce the final copy of the proposed code modification and submit it to the Department of State and General Code Publishers Corporation.

Moved: Cavalcoli

Seconded: Kesner

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

VI.

WHEREAS, the Town of Hamburg has received a rezoning request for the property at the southeastern corner of McKinley Parkway and Dorchester, and

WHEREAS, in compliance with the Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law, the Hamburg Town Board has reviewed the request to rezone this property and construct a bank at this location, and

WHEREAS, the Town of Hamburg has held two public hearings on the potential rezoning of this property, and

WHEREAS, the rezoning of the property from C-3, Office District to H-C, Hamburg Commercial, will not adversely affect the natural resources of the State and/or the health, safety, and welfare of the public, and are consistent with social and economic considerations:

THEREFORE BE IT RESOLVED, that the Town of Hamburg has determined that the proposed rezoning (C-3 to H-C) and subsequent bank construction is not anticipated to result in any significant effect on the environment, and that a Negative Declaration (Notice of Determination of Non-Significance) is hereby issued, based on the following reasons:

1. The rezoning is in conformance with the adopted Hamburg Comprehensive Plan;
2. The rezoning and project will not result in any significant large impacts to land, water, air, agricultural or open space and recreation resources;
3. The project is not within a CEA, and will not produce noise and odors above ambient conditions.
4. The rezoning and project will impact the aesthetics and character of the area, and will impact the transportation system. Requirements of the Special Use Permit and McKinley Parkway Overlay will mitigate these potential impacts.

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

Moved: Cavalcoli

Seconded: Hochul

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

VII.

WHEREAS, the Town of Hamburg received a rezoning request from Liberatore Management to rezone property at the southeastern intersection of McKinley Parkway and Dorchester, and

WHEREAS, the Town held a public hearing on the rezoning request (C-3 to C-1), and based on the public hearing and further review by the Town, the rezoning was modified (C-3 to H-C) and a second public hearing was scheduled, and

WHEREAS, a second public hearing has been held and a SEQR Negative Declaration issued, and

WHEREAS, the Town of Hamburg wishes to rezone this parcel to H-C, Hamburg Commercial District for the following reasons:

1. The rezoning is in accordance with the Town's Comprehensive Plan;
2. The rezoning will allow similar uses to those currently allowed along McKinley in this area;
3. Any project proposed for this site will still require site plan and possibly SUP approval, and will have to meet the requirements of the McKinley Parkway Overlay, and the site plan approval.

BE IT RESOLVED, that the Zoning Code of the Town of Hamburg be amended as follows:

To amend Local Law #10 of the year 1986 of the Code of the Town of Hamburg entitled "Zoning". To provide for a change in the boundary of the zoning map whereby the zoning is changed from C-3, Office District to H-C, Hamburg Commercial District for the property located at the southeastern corner of McKinley Parkway and Dorchester Parkway as described as follows:

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

BEGINNING at the northeasterly corner of Subdivision Lot Number 92 as shown on a map filed in the Erie County Clerk's Office under Map Cover 925, said point being on the centerline of Dorchester Parkway; THENCE south along the easterly line of said Subdivision Lot Number 92, said line being at right angles to Dorchester Parkway, a distance of 233.00 feet to the southeasterly corner of Subdivision Lot Number 92; THENCE westerly along the south line of said Subdivision Lot Number 92 and parallel with Dorchester Parkway, a distance of 149.32 feet, more or less to a point in the easterly line of McKinley Parkway as described in a deed recorded in the Erie County Clerk's Office in Liber 2667 of Deeds at Page 426; THENCE , northerly along the easterly line of McKinley Parkway, a distance of 233.04 feet, more or less to a point in the centerline of Dorchester Parkway; THENCE easterly along the centerline of Dorchester Parkway, a distance of 154.36 feet, more or less to the place or point of beginning.

Moved: Cavalcoli

Seconded: Hochul

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

VIII.

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

August 9, 2004

Town Board Meeting

Moved: Hochul

Seconded: Kesner

Roll Call: Ayes: Hoak, Cavalcoli, hochul, Kesner, Quatroche

Noes: None

Carried

IX.

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

9/3/04	9/14/04
9/4/04	9/17/04
9/05/04	9/18/04
9/06/04	9/19/04
9/08/04	9/21/04
9/10/04	9/24/04
9/11/04	9/25/04
9/12/04	9/26/04

Moved: Quatroche

Seconded: Cavalcoli

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

X.

RESOLVED, that the Town Board approve the termination of personnel for the Building and Grounds Department as follows:

1. Joseph Bauman	Seasonal Laborer	09/03/2004	Terminate
2. Frederick Best	“ ”	08/18/2004	Terminate
3. William Blette	“ ”	08/20/2004	Terminate
4. Justin Cefaly	“ ”	08/19/2004	Terminate
5. Mary Coughlin	“ ”	08/20/2004	Terminate
6. Karrie Duffett	“ ”	08/06/2004	Terminate
7. Alex Fabi	“ ”	08/27/2004	Terminate
8. Jody Gavin	Seasonal Clerk Typist	08/25/2004	Terminate
9. Jared Gorman	Seasonal Laborer	08/13/2004	Terminate
10. Brian Lalley	“ ”	08/20/2004	Terminate
11. Bryan Muldowney	“ ”	08/20/2004	Terminate
12. Shay Nelson	“ ”	08/10/2004	Terminate
13. Alan Putman	“ ”	08/20/2004	Terminate
14. Colin Reilly	“ ”	08/20/2004	Terminate
15. Erik Smith	“ ”	08/13/2004	Terminate
16. Timothy Smith	“ ”	08/27/2004	Terminate
17. Joseph Wutz	“ ”	08/20/2004	Terminate
18. Tyler Collins	“ ”	08/20/2004	Terminate

Moved: Quatroche

Seconded: Cavalcoli

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

18. Robertson, Kristen	“	”	Terminate
19. Ryan, Robert	A7265(230)	09/06/2004	Terminate
20. Schultz, Elizabeth	“	”	Terminate
21. Schultz, Susan	“	”	Terminate
22. Spencer, Jamison	“	”	Terminate
23. Kemmer, Daniel	A7270(238)	09/06/2004	Terminate
24. Wilk, Peter	“	”	Terminate
23. Battaglia, Renee	B7310(320)	“	Terminate
24. Bebak, Marilou	“	”	Terminate
25. Blake, Carolyn	“	”	Terminate
26. Bolm, Ryan	“	”	Terminate
27. Brady, Caitlin	“	”	Terminate
28. Braunscheidel, Marissa	“	”	Terminate
29. Clark, Lyndsay	“	”	Terminate
30. Collins, Lauren	“	”	Terminate
31. Collins, Sean	“	”	Terminate
32. Conrad, Meegan	“	”	Terminate
33. Courtney, Jennifer	“	”	Terminate
34. Dembski, Mike	“	”	Terminate
35. Dills, Benjamin	“	”	Terminate
36. Donovan, Cornelius	“	”	Terminate
37. Dulak, Jenifer	“	”	Terminate
38. Drew, Carolyn	“	”	Terminate
39. Dziob, Mark	“	”	Terminate
40. Filighera, Randall	“	”	Terminate
41. Gallardo, William	“	”	Terminate
42. Garcia, Alicia	“	”	Terminate
43. Gleason, Kate	“	”	Terminate
44. Halladay, Nicholas	“	”	Terminate
45. King, John	“	”	Terminate
46. Klaes, Charles	“	”	Terminate
47. Kromke, Lauren	“	”	Terminate
48. Kubera, Michael	“	”	Terminate
49. Kull, Joseph	“	”	Terminate
50. Kumiega, Renee	“	”	Terminate
51. Lantzy, Emily	“	”	Terminate
52. Lederman, Susanne	“	”	Terminate
53. Lyon, Elise	“	”	Terminate
54. Mann, Lindsey	“	”	Terminate
55. McNamara, Rachel	“	”	Terminate
56. Melewski, Mark	“	”	Terminate
57. Meyer, Megan	“	”	Terminate
58. Michalek, Jennifer	“	”	Terminate
59. Nelson, Brett	“	”	Terminate
60. Nelson, Gay Lynn	“	”	Terminate
61. O'Brien, Sean	“	”	Terminate
62. Orcutt, Kimberly	“	”	Terminate
63. Pasquarella, Michael	“	”	Terminate
64. Pellicano, Rosanna	“	”	Terminate
65. Poliseno, Melissa	“	”	Terminate
66. Poliseno, Jessica	“	”	Terminate
67. Portka, Cara	“	”	Terminate
68. Portka, Meghan	“	”	Terminate
69. Prucnal, Kathryn	“	”	Terminate
70. Best, Sherri	“	”	Terminate
71. Resetarits, Frank	“	”	Terminate
72. Rettig, Amber	“	”	Terminate
73. Rettig, Daniel	“	”	Terminate
74. Richard, Kelly	“	”	Terminate
75. Robar, Stacey	“	”	Terminate
76. Ryan, Briana	“	”	Terminate
77. Ryan, Wendy	“	”	Terminate
78. Schappert, Erika	“	”	Terminate
79. Shintzius, Julie	“	”	Terminate
80. Schranz, Kirk	“	”	Terminate
81. Smith, Kevin	“	”	Terminate

XXIX.

BE IT RESOLVED, that the Town Board, as Commissioners of the Hamburg Master Sewer District, SS21, approve and execute a Fringe Customer agreement with BFG Electroplating, Jeffrey Blvd., to connect to said district's sanitary sewer system.

Moved: Cavalcoli

Seconded: Kesner

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

XXX.

BE IT RESOLVED, that the Town Board authorizes the Engineering Department to renew their AutoCAD 2005 subscription and technical support agreement with DLT Solutions, Inc. for a one year period beginning October 23, 2004. This is for the computer aided design and drafting software which is utilized by the Engineering Department. The cost for these services is \$336.00, funds for which are available in the 2004 budget for the Engineering Department, under Account No. A1440.203.

Moved: Cavalcoli

Seconded: Quatroche

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

XXXI.

WHEREAS, the State legislature passed budget legislation which adversely affects the significant tax revenue to Towns; and

WHEREAS, this revenue results from Justice Court adjudication of certain violations (most of them speeding) of the Vehicle and Traffic Law; and

WHEREAS, the Town will be burdened with the cost of operating its court without the benefit of the "fines" revenue stream; and

WHEREAS, in the past the Town would share with the State, fines from speeding tickets and keep fines relating to violations that originated as speeding tickets but were reduced to parking violations, and this legislation would shift all revenue originating as "speeding tickets" to the State; and

WHEREAS, the Town would lose substantial revenues as well as the cost to run the court.

NOW THEREFORE BE IT RESOLVED, the Hamburg Town Board urges the legislature to restore these moneys back to the Towns and other local affected governments who will have no choice but to increase real property taxes to absorb the resulting deficits.

Moved: Hoak

Seconded: Unanimous

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

Supervisor Hoak comments that this isn't just a loss of revenue for the Town's and Villages. The proactive approach of trying to give some defensive driving training has been taken off the plate. Why go to driving school if you are going to get a speeding ticket and not lower it. The violator will get the points on his license and his insurance will go up. This doesn't just affect the Town but also the individual.

XXXII.

XLIV.

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

Scott Gibbons
53 Miller Ave.
Blasdell, N.Y. 14219

Moved: Kesner

Seconded: Cavalcoli

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

XLV.

BE IT RESOLVED, that the Town Board approve the request of Bob Hutchison, Town Assessor, to attend the course Programming Visual Basic held at Erie Community College South Campus Monday and Wednesday evenings during the Fall Semester. The cost is \$614 and funds are available in Account A1355.492.

Moved: Quatroche

Seconded: Quatroche

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

Correspondence

Letter 91 - Supervisor Hoak comments that this is a letter from John Wicka thanking the Town for the Golf Tournament.

Late Correspondence

92A - To Supervisor Hoak from Joe Kilian concerning the intersection of Old Big Tree and Big Tree Road. With the addition of the donut shop that intersection may need an upgrade.

Supervisor Hoak comments that this should be referred to the Traffic Safety Committee.

Reports From Town Board Members and Department Heads

Councilwoman Kesner reports that in reference to the awards for the Firefighters of the month, Thomas Partridge of Newton Abbott was chosen for the July recipient and Paul Ehret from Lake Shore Volunteer Fire Company for August and Robert Zerby, Sr. From Lake Shore for September. These names were submitted by their colleagues for their many years of dedication, congratulations to them. She then announces that over the past couple of months a citizens advisory committee was formed to assist the Town of Hamburg Domestic Violence Department and one of their goals was to sponsor a fundraiser for the victims. This Office is supported by the Community Development money but there really isn't any money in that grant to address the emergency needs of the Domestic Violence victims. Their goal is to raise money for housing, food, transportation and legal retaining fees. In the last year our Advocate has served over 800 victims in this Town. They are proud of the fact that they are doing something to try and stop the vicious circle of domestic violence in this Town. The first scheduled event will be a black tie affair on October 8th from 7:00 to 11:00 pm at Brierwood Country Club. If anyone is interested in attending this function call the Domestic Violence Office.

Councilwoman Hochul reports that our Engineering Department is pursuing our opportunities under the Federal Statute that allows them to create quiet zones at the Railroad crossings. We do have eight crossings in our Town. Mr. Kapsiak has taken the lead on this and it is a very lengthy document that has to be compiled. Anyone who is interested in a resolution on this she asks for patience because they have a lot to do on this end including assembling a diagnostic team. There is also a significant cost involved. They are on it and people are very excited about it. The number of trains has increased about 30% in the last few years and has had an impact on the quality of life in the Lakeshore area. She thanks Mr. Kapsiak for his help. This Wednesday they are having a Seaway Trail Visitor Center meeting.

Councilman Quatroche comments that they stole the idea from the Volunteer Fireman of having a golf tournament to thank their volunteers. The Recreation Department will hold a golf tournament for volunteer coaches who put in a tremendous amount of time for the youth in our community. It will be held next week and he thanks the Recreation Department for organizing that. On September 24th they are holding a Quality Youth Sports Summit at Michaels Banquet hall for all area sports leaders. The Recreation Department has taken a very proactive roll in youth sports and trying to educate the coaches and parents as to the best practices in youth sports. September 25th is the 2nd anniversary celebration for the Town of Hamburg Skate Park, which Councilwoman Hochul started in the Town and we have been nationally recognized for doing that. With regards to revenues we have been holding on task, however, the golf course has not been seeing as much revenue so they are trying to catch up, but the Recreation Department has done a great job of holding up revenues at this point.

Supervisor Hoak comments congratulations to Councilman Quatroche and his wife Jodi on the birth of their new son. They are very blessed. Primary Day is tomorrow please get out and vote.

Catherine Rybczynski, Town Clerk, wants to thank the Town Board members that supported the Domestic Violence chicken barbecue this Saturday, sponsored by Hamburg Sunrise Rotary and the Hamburg Lions. Going into this they had 200 tickets sold pre-sale and hopefully they had a lot of walk-ins. She hasn't gotten the final numbers but will report when she does.

Business From the Floor

Joe Kilian comments that the Root Five Restaurant has put up a stockade fence across the lake shore access with a gate. This is one of the few remaining places of access for people to walk from Route Five to the lake. Mr. Boehm comments that he can speak from personal experience. This is not a town matter. He will discuss it later with him.

John Pukalo, 5013 Richmond Ave., wants to address the Board on a sewer problem in his area. They can't flush their toilet and he is getting flooding. His neighbors yard is flooding. The County and State are telling him that Hamburg is under a mandate to fix this problem. Hamburg is not in compliance with that mandate. The County is no longer pumping. What is the Town's suggestion and course of action on this. What will he do next week when it rains. Supervisor Hoak comments that Mr. Kapsiak and Mr. Connolly have looked at this problem. He asks Councilman Cavalcoli to address this. John responds that this is a chronic problem, it is depreciating his home, his neighborhood and is affecting his family.

Councilman Cavalcoli responds that there is some confusion between the State DEC and their mandate, the Erie County Sewer Districts and what they say they need to do and don't need to do and the Town. There are things that they are doing that are long term, but his concern is short term. This is an ongoing problem, they have been working on this for almost a year with the DEC and the County and they have some long range plans. One is to change the course of the creek to alleviate some of the back-up. There are other streets involved and he wants him to know that this is not a problem that has escaped this Town Board. The first thing that he will schedule, as soon as he can, he wants the DEC and Mr. Judd, from the NYSDEC, he wants the Erie County Sewer and the Town's staff. They need to sit down at the table and resolve some of these questions. Fingers are being pointed at the Town of Hamburg that we are the problem and we are only a small part of the problem. There was a study done in 1992 by the County who said that the trunkline was undersized. This is a County issue not Town and they aren't owning up to that. They will sit down and discuss the issue of who is responsible and Hamburg will take care of their portion and they will work with them to make sure they comply with their portion. Secondly they will continue to look at diverting the creek and cleaning that up. Part of the problem comes from the storm discharge from heavy rains. There is some infiltration from homes that will be resolved. Finally he will ask Mr. Connolly and Mr. Kapsiak to address a short term solution.

John comments that he was advised by Mr. Judd that a letter was sent to the Town of Hamburg that the County was no longer going to pump. Councilman Cavalcoli comments that they will address that as well, the letter is not clear as to that they were going to stop pumping. After that letter was sent they still continued to do some pumping and they will resolve that issue.

Mr. Connolly comments that his Department is not involved in the hydraulics and engineering aspects. They go out and pump when they are told to and where they are told to based on expert advise. He is a member of the Sewer Board No. 3 and they have a meeting Wednesday morning and he hopes to talk to them then. He is concerned about getting calls about pumping that they are not capable of doing right now. The County pumps are double or more the size that he has and he doesn't have any extra pumps. The other question he has concerns the trunk, if he is directed by the Town Board to pump out that County main line, will they allow them to do that. He needs to get clarification on this. At that meeting he is going to ask how to resolve this and if they will continue to pump. He assures him that this Town will not let any municipality or anyone who is in need go wanting if they have the ability to help them.

Councilman Cavalcoli comments that they will know by midday on Wednesday whether they will grant the Town the extension to continue pumping. The letter was sent back in February or March and in that they only said that they had made modifications to their system and their intention was not to continue pumping if the system worked. They never said they would stop or if the system was adequate or inadequate after the modifications, so they researched all the information. He has made some phone calls and was very disappointed in the action and statements that were made both by the County and State DEC in terms of what the issue is and how it will be resolved. His intention is to resolve this both long term and short term.

John questions who will get back to him on this.

Councilman Cavalcoli responds that if there is an issue to appropriate money for rentals or whatever he will confer with his colleagues and they will give him an indication of how he can get a response if there is a storm.

Councilwoman Hochul comments that the County has been doing something for 20 years and they arbitrarily in the middle of a crisis situation pulled the plug and said they weren't going to do it. They are not trying to pass the buck. Finger pointing is not going to help him. To say that Mr. Connolly was shocked is an understatement. The County undertook the responsibility of pumping out county lines all these years and when we are in a crisis they say they won't do it, it is the Town's responsibility. They did say something might happen, but they never set a date and they pumped in July. So, the precedent tells them they will continue to do it.

He should understand their frustration now with the next level of government. They also resent the DEC pointing fingers back at them because they need a solution that he can live with. They are on his side and they are not happy with what happened to him either. John comments that they really need to clarify everything with everyone involved.

Councilman Cavalcoli comments that he is very angry with the way this was handled by the County and the State and he will make sure that his message and theirs is carried to them and they will resolve these issues.

Steve McCabe, 5282 Lakeshore Road, is present to commend the Board on the Route 5 issue and Councilwoman Hochul's lead supporting the 45 mph speed limit on the stretch going from the western end of the project corridor down to eighteen mile creek. He asks the Board to attend a DOT meeting that will be held Wednesday at Cloverbank Elementary at 4:00 p.m.. He believes this is a turning point and it is critical for them to be there and show the kind of support that this issue needs. This is one of the few remaining stretches of waterfront property in Western New York that has not been transformed into an expressway or superhighway. This is a great opportunity to get behind it and maintain a crown jewel of Hamburg and Western New York. The Board comments they will be there.

Dan Howe comments that when he talked earlier he was remiss in not thanking Kurt Allen for walking the whole application process for the new Hazmat building through the Town. He was a big asset in this whole process.

XLVII.

RESOLVED, that the Town Board adjourn to Executive Session at 8:25 p.m. with Finance, Highway and Legal.

Moved: Hoak

Seconded: Kesner

Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche

Noes: None

Carried

Catherine Rybczynski, Town Clerk

Correspondence - September 13, 2004

88 - To Supervisor Hoak from the Town Clerk's Office, the Monthly Report for August 2004 with receipts totaling \$91,849.00.

89 - To Supervisor Hoak from Lisa Wiest concerning the Route 5 improvements. Stating that she agrees something needs to be done but reducing the speed limit and number of lanes is just creating a headache for those who are doing nothing wrong. There has to be a happy middle ground that will make both sides happy.

90 - To the Town Board from the Town of Eden, asking the Governor and New York Legislature to consider passing (S.6949/A.10053) which would create a community preservation fund.

91 - To Supervisor Hoak from John Wicka on behalf of the Hamburg Fire Chief's Association and all firefighters extending their sincerest appreciation for supporting the 5th Annual Firefighters Golf Outing. Also thanking Joe Wenzel and Chris DiOrio whose valuable assistance was greatly appreciated.

92 - To Supervisor Hoak from the Town of Lancaster, a resolution stating that the County of Erie is mandated by New York State to contribute towards the cost of Medicaid and a bill was introduced which would amend the Social Services Law and establish the "Local Taxpayer Relief Act of 2004" which would eliminate certain Medicaid expenses paid by social services district. Stating that the Town of Lancaster is in support of this bill and requests that the NYS Senate introduce a bill similar to this that will control or cap the local share contribution to Medicaid..