

A regular Town Board Meeting of the Town of Hamburg, County of Erie and State of New York was held at the Town Hall, S-6100 South Park Avenue, Hamburg, New York on the 27th day of September 2010.

TOWN BOARD MEMBERS

PRESENT:

Steven J. Walters	Supervisor
Kevin S. Smardz	Councilman
Jonathan G. Gorman	Councilman
Amy J. Ziegler	Councilwoman

ABSENT:

Joseph A. Collins	Councilman
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ALSO PRESENT: Catherine A. Rybczynski, Town Clerk; Dawn Aydelotte, Deputy Town Clerk; Mary Dosch, Sr. Account Clerk; Wayne Drescher, Financial Consultant; Gerard Kapsiak Town Engineer; Robert Hutchison, Town Assessor; Kenneth Farrell, Town Attorney; Chief of Police Michael Williams; Marty Denecke, Director of Recreation; Rick Krautsack Deputy Highway Superintendent; Kurt Allen, Supervising Code Enforcement Officer; Drew Reilly, Planning Consultant; Peter Reszka, Planning Board Chairman; Jerry Giglio, Traffic Safety Consultant.

The Pledge of Allegiance was recited.

Information on Fire Exits was provided.

Suzanne McKinney, Character Council of WNY, announces that the Character quality for September is Diligence: investing my time and energy to complete each task that is assigned to me. One organization that exemplifies this definition is the Franciscan Sisters' of Saint Joseph. The Sisters are introduced and the award is presented.

Dawn Aydelotte, Deputy Town Clerk, reads the following Legal Notice as published by the Hamburg Sun and the Front Page:

LEGAL NOTICE/TOWN OF HAMBURG
NOTICE OF HEARING

PLEASE TAKE NOTICE that the Town Board of the Town of Hamburg will hold a public hearing on September 27, 2010, at 7:00 p.m. (local time) at the Hamburg Town Hall, 6100 South Park Avenue, Hamburg, New York, in accordance with Section 184 of the Town Law, to provide for changes in the fire protection contracts as follows:

<u>NAME OF COMPANY</u>	<u>2011 CONTRACT</u>	<u>Requested 2010 CONTRACT</u>
Armor Volunteer Fire Co., Inc.	\$247,275	\$235,508
Big Tree Volunteer Fire Co., Inc.	\$446,950	\$429,760
Lake Shore Volunteer Fire Co., Inc.	\$488,500	\$483,276
Lake View Fire District (Town wide fire protection district)	\$62,424	\$61,200
Newton Abbott Volunteer Fire Co., Inc.	\$424,090	\$424,090
Scranton Volunteer Fire Co., Inc.	\$433,000	\$426,500
Village of Hamburg Volunteer Fire Co., Inc. (Town wide fire protection district)	\$151,857	\$150,354
Woodlawn Volunteer Fire Co., Inc.	\$352,337	\$352,337

These contracts provide for fire protection and ambulance service within and/or outside the boundaries of the respective districts. The term of the above contracts shall be for a period of one (1) year with a privilege of renewal for four (4) additional year terms, as provided in and under the conditions stated in each contract. Full opportunity to be heard will be given to all citizens and parties interested.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF HAMBURG

Dated: August 9, 2010

Catherine Rybczynski
Town Clerk
Town of Hamburg

No correspondence was received.

The following commented on the Armor Volunteer Fire Company, Inc proposed 2011 Budget:

Dean Messing, Supervisor Walters

The following commented on the Big Tree Volunteer Fire Co., Inc proposed 2011 Budget:

Ken Page

The following commented on the Lake Shore Volunteer Fire Co., Inc proposed 2011 Budget:

Chad Witkowski

The following commented on the Lake View Fire District proposed 2011 Budget:

John Wicka

The following commented on the Newton Abbott Volunteer Fire Co., Inc proposed 2011 Budget:

Dave Jensen

The following commented on the Scranton Volunteer Fire Co., Inc proposed 2011 Budget:

Dave Dommell

The following commented on the Village of Hamburg Volunteer Fire Co., Inc proposed 2011 Budget:

George Utz

The following commented on the Woodlawn Volunteer Fire Co., Inc proposed 2011 Budget:

Pat McAnaney

The following spoke concerning proposed changes in the fire protection contracts for all the Fire Companies within the Town of Hamburg:

John Olzyk, Supervisor Walters, Pat McAnaney, Dean Messing, Laura Hahn, Ken Farrell, George Utz, Ron Klimowicz, Ferd Garcia, John Wicka

1.

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

ADOPTED Ayes 4 Walters, Smardz, Gorman, Ziegler
 Noes 0

RESOLVED, that the Town Board close the Public Hearing.

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

LEGAL NOTICE
TOWN OF HAMBURG

REZONING OF 7 PROPERTIES ALONG SOUTHWESTERN BOULEVARD
Addresses: 4888, 4882, 4876, 4870, 4862, and the vacant adjoining parcel, and a portion
of 4828 Southwestern Boulevard

PLEASE TAKE NOTICE that there has been presented to the Town Board on August 9, 2010, pursuant to the Municipal Home Rule Law, a proposed local law to be known as proposed local law #11, 2010; said local law provides for the amendment of Local Law #10, 1986, Chapter 280-entitled Zoning, and provides substantially as follows:

For the adoption of an amendment to said Zoning Code for property along Southwestern Boulevard located west of Howard Road and east of the Lowe's store. The properties are identified as tax map parcels S.B.L. Nos. 170.16-4-2, 170.16-4-3, 170.16-4-4, 170.16-4-5, 170.16-4-6, 170.16-4-7, and that portion of 170.16-4-1 being south of a 100 feet wide buffer area extending along the entire northerly length of the parcel. The property is to be rezoned from R-2 (Single Family Residence, Attached District) to C-1 (Local Business District).

THEREFORE, pursuant to the statutes and the provisions of the Municipal Home Rule Law, the Town Board of the Town of Hamburg will hold a public hearing on September 27, 2010 at 7:00 p.m. (local time), at which time all interested persons may be heard.

Dated: August 9, 2010

Catherine Rybczynski
Town Clerk
Town of Hamburg

One piece of correspondence was received against the rezoning from a Robert Lamieux.

Drew Reilly, Planning Consultant, gives a presentation explaining the reason for the rezoning of property as stated above.

The following spoke concerning the rezoning of 7 properties along Southwestern Boulevard:

Councilman Gorman, Drew Reilly and Joe Kilian

The following spoke in favor of the rezoning of 7 properties along Southwestern Boulevard:

Ken Bloom, Tammy Bojanowski and Jay Milligan

The following spoke against the rezoning of 7 properties along Southwestern Boulevard:

Anthony Ballesteros, Don Smith, a resident on Dogwood and Bob Coffey

2.

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

ADOPTED	Ayes	4	Walters, Smardz, Gorman, Ziegler
	Noes	0	

RESOLVED, that the Town Board close the Public Hearing.

3.

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

ADOPTED	Ayes	4	Walters, Smardz, Gorman, Ziegler
	Noes	0	

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

09/13/2010	Town Board Meeting
09/20/2010	Work Session

4.

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

ADOPTED	Ayes	4	Walters, Smardz, Gorman, Ziegler
	Noes	0	

BE IT RESOLVED that the Town Board schedules a public hearing on proposed local law #12, 2010. This proposed local law would amend Chapter 235 of the Hamburg Town Code to provide for a Cold War Veterans Exemption that would apply to honorably discharged veterans who served between September 2, 1945 and December 26, 1991, not already receiving an Alternative or Eligible Funds Veteran Exemption.

The hearing is to be scheduled for October 25, 2010 at 7:00 p.m.

The following spoke concerning resolution #4:

Joe Kilian, Ferd Garcia and Supervisor Walters

5.

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

ADOPTED	Ayes	4	Walters, Smardz, Gorman, Ziegler
	Noes	0	

BE IT RESOLVED, The Town Board approve the annual maintenance agreement with ESRI Inc. for ArcGIS software in the following departments:

Department	Cost	Account
Assessing	\$415	A1335.423
Engineering	\$828	A1440.456
Building Inspection	\$276	B3620.423
Emergency Management	\$276	A8760.451

Total Cost	\$1,795	
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BE IT FURTHER RESOLVED, That the Town Board authorizes the Supervisor to sign the agreement authorization

6.

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

ADOPTED	Ayes	4	Walters, Smardz, Gorman, Ziegler
	Noes	0	

WHEREAS, the Town of Hamburg originally adopted a Local Waterfront Revitalization Program (LWRP) in March 1987; and

WHEREAS, acknowledging the need to update the LWRP to reflect current conditions and help to better manage land use activities in the waterfront area, the Town Board authorized the preparation of an update to the local program; and

WHEREAS, the Hamburg Town Board, assisted by the Town of Hamburg Shoreline Revitalization Committee and Wendel Duchscherer Architects and Engineers, has completed a Draft Amendment to the Local Waterfront Revitalization Program and LWRP Consistency Review Law, in accordance with the guidelines of the New York State Department of State and the requirements of Article 42 of the New York State Executive Law; and

WHEREAS, in accordance with Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the New York State Environmental Conservation Law, the Town Board was designated as the SEQR Lead Agency, conducted a coordinated environmental review of the LWRP amendment, and has appropriately acknowledged and addressed all comments received from interested and involved agencies; and

WHEREAS, the findings of the environmental review indicate that the adoption of the Town of Hamburg Local Waterfront Revitalization Program Amendment and Consistency Review Law will not adversely affect the natural resources of the State and/or the health, safety, and welfare of the public, and is consistent with all associated social and economic considerations,

THEREFORE BE IT RESOLVED, that the Hamburg Town Board, acting as the lead government entity for this action, has determined that the adoption of the Local Waterfront Revitalization Program Amendment and Consistency Review Law is not anticipated to result in any significant adverse impacts on the environment, and that a Negative Declaration is hereby issued based on the findings set forth in the Negative Declaration Notice of Determination of Non-Significance.

BE IT FURTHER RESOLVED, that the Town Supervisor is authorized to sign the Environmental Assessment Form and Negative Declaration, and direct Wendel Duchscherer to undertake the preparation of all appropriate notices and filings.

The following spoke concerning resolution #6:

Joe Kilian, Drew Reilly

7.

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

ADOPTED	Ayes	4	Walters, Smardz, Gorman, Ziegler
	Noes	0	

WHEREAS, the Town of Hamburg originally adopted a Local Waterfront Revitalization Program (LWRP) in March 1987, and has recently undertaken the preparation of an amendment to update this program in cooperation and coordination with the New York State Department of State, and in accordance with the provisions of Article 42 of the New York State Executive Law; and

WHEREAS, the Draft Amendment to the LWRP has been prepared under the review and guidance of the Town of Hamburg Shoreline Revitalization Committee, with consultant planning services provided by Wendel Duchscherer Architects and Engineers; and

WHEREAS, the Hamburg Town Board, as lead agency, prepared an Environmental Assessment Form to identify and evaluate the potential impacts of adopting the amended LWRP, in accordance with the requirements of the State Environmental Quality Review Act (SEQRA) and Part 617 of the implementing regulations of Article 8 of the New York State Environmental Conservation Law; and

WHEREAS, the Town Board has determined that this action will not result in any anticipated adverse impacts to the natural, institutional, economic, developmental, or social resources of the Town, and prepared and adopted a SEQR Negative Declaration in this regard; and

WHEREAS, the Town Board held a public hearing on September 13, 2010 to gather public questions and comments on the Draft Amendment to the LWRP and, in evaluation of this input, has determined that the Draft Amendment to the LWRP is complete and ready for required review by all appropriate public agencies,

THEREFORE BE IT RESOLVED, that the Draft Amendment to the Local Waterfront Revitalization Program for the Town of Hamburg is accepted by the Town Board as complete and ready for public agency review, and shall be submitted to the New York State Department of State for distribution to and subsequent review by Federal, State, and regional agencies pursuant to the provisions of Article 42 of the New York State Executive Law.

8.

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

ADOPTED Ayes 4 Walters, Smardz, Gorman, Ziegler
 Noes 0

RESOLVED, that the Town Board approve the membership of the following into the Big Tree Volunteer Firemen's Co., Inc.:

Amy L. Kaplan
 3682 Big Tree Road Apt. #12
 Hamburg, N.Y. 14075

Chelsea Krieger
 4238 Misty Meadow Lane
 Hamburg, N.Y. 14075

9.

On a motion of Councilwoman Ziegler, seconded by Councilman Gorman, the following resolution was

ADOPTED Ayes 4 Walters, Smardz, Gorman, Ziegler
 Noes 0

BE IT RESOLVED that the Hamburg Town Board authorize Christopher Hull; Director of Community Development and Timothy Regan; Community Development Assistant to attend the United States Department of Housing and Urban Development, Community Planning and Development Training Session in Buffalo, New York on the following dates: Tuesday, September 28, 2010 and Wednesday, September 29, 2010. The two day training course is specifically set for "CDBG and HOME program Entitlements Communities". The Community Development car will be utilized. Funding for the training is available within the town's CDBG Program Income budget/account. Total estimated cost for both participants for both days is as follows:

Meals:	\$160.00
Parking and Misc. Fees:	<u>\$ 30.00</u>
TOTAL:	\$190.00

10.

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

ADOPTED Ayes 4 Walters, Smardz, Gorman, Ziegler
 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 Town of Hamburg Local Law No 9-1974, Village of Blasdell Chapter 95 Article 1, Village of Hamburg Local Law No. 3 - 1998 Section 182-2

WHEREAS, the Town Code Enforcement Official has identified these properties to be 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 Landscaping 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:

Property Address	Service Date(s)	Invoice Amount
37 Miriam Avenue	09/14/10	\$62.00
291 Buffalo Street	09/21/10	\$62.00
110 East Main St	09/10/10	\$139.50
5538 Camp Rd	09/23/10	\$263.25

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

11.

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

ADOPTED	Ayes	4	Walters, Smardz, Gorman, Ziegler
	Noes	0	

WHEREAS, the construction of the Hamptonbrook Drive/Eighteenmile Creek Streambank Stabilization Project involved the furnishing and placement of 3172 tons of stone fill to restore and protect the eroded embankment, as well as the reconstruction and repaving of 200 linear feet of collapsed roadway located adjacent to the creek. This work was inspected by the Town Engineering Department, and has been certified by the Town Engineer and Greenman-Pedersen, Inc. Consulting Engineers as having been satisfactorily completed in accordance with the plans and specifications for the project, and all contract closeout submittal requirements have been complied with,

THEREFORE BE IT RESOLVED, that the Town Board hereby accepts this contract as complete, and approves the release of final payment to D&H Excavating, Inc., the contractor for this project. The total amount approved and paid under this contract is \$187,174.56. Federal and State disaster assistance for 87½ percent of the cost of this project is expected to be received from the Federal Emergency Management Agency and New York State Office of Emergency Management, following their final review and approval of the project.

The following spoke concerning resolution # 11:

Joe Kilian, Gerard Kapsiak

12.

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

ADOPTED	Ayes	4	Walters, Smardz, Gorman, Ziegler
	Noes	0	

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

- | | | | |
|-----------------------|------------------------------|------------|-----------|
| 1. Betrus, Thomas | A7265(230)
Rec. Attendant | 09/27/2010 | \$7.63 PT |
| 2. Cavaretta, Peter | A7310(320) | 09/22/2010 | Terminate |
| 3. Giamberdino, Erynn | A7180(215) | 09/22/2010 | Terminate |
| 4. Janicki, Alison | A7180(215) | 09/22/2010 | Terminate |
| 5. Lane, Sean | A7180(215) | 09/22/2010 | Terminate |
| 6. Maher, John | A7180(215) | 09/22/2010 | Terminate |
| 7. Mencer, Andrew | A7180(215) | 09/22/2010 | Terminate |
| 8. Nowak, Kyle | A7180(215) | 09/22/2010 | Terminate |

9. Pullano, Rebecca	A7180(215)	09/22/2010	Terminate
10. Smith, Elizabeth	A7180(215)	09/22/2010	Terminate
11. Smith, James	A7180(215)	09/22/2010	Terminate

13.

On a motion of Councilman Gorman, seconded by Councilwoman Ziegler, the following resolution was

ADOPTED	Ayes 4	Walters, Smardz, Gorman, Ziegler
	Noes 0	

WHEREAS, Section 2019-a of the Uniform Justice Court Act requires that Town and Village Justices annually provide court records and dockets to their respective auditing board to be examined or audited and that fact be entered into the minutes of the Board's proceedings.

WHEREAS, Amato, Fox and Company the Town's auditors have performed such an audit and have completed the Independent Auditors Report for 2009.

THEREFORE BE IT RESOLVED, that the Town Board hereby acknowledges that the required audit was conducted and will forward this resolution along with Auditors report to the NYS Office of Court Administration.

14.

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

ADOPTED	Ayes 4	Walters, Smardz, Gorman, Ziegler
	Noes 0	

RESOLVED, that the Town Board approve the Transfer of Appropriations for the Highway Department, within the 2010 Budget, as follows:

From: Repair & Maint. Supplies	A8540.0413	\$2,300.00
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To: Repairs & Maintenance	A5010.0460	\$2,300.00
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Funds are needed for conference table and chairs.

15.

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

ADOPTED Ayes 4 Walters, Smardz, Gorman, Ziegler
 Noes 0

BE IT RESOLVED, that Curtis E. Hodson (Trustee) and Steven J. Walters (Trustee Supervisor) are hereby authorized to buy, sell, assign and endorse for transfer, certificates representing stocks, bonds, or other securities now registered or hereafter registered in the name of this Town of Hamburg Big Tree Volunteer Firemen’s Company, Inc. Service Award Program.

16.

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

ADOPTED Ayes 4 Walters, Smardz, Gorman, Ziegler
 Noes 0

WHEREAS, the Town of Hamburg wishes to determine a cost effective solution to the expensive dredging of the boat launch at the Town Park on Lakeshore Road; and

WHEREAS, Occupational Safety & Environmental Association Inc. (OSEA) of South Park Ave. in Blasdell, New York has offered its services to review site conditions and dredging operations and determine, if possible, remedial options to reduce the frequency and/or volume of dredging required.

NOW THEREFORE BE IT RESOLVED, that the Town Board authorize Highway Superintendent Tom Best to enter into an agreement with OSEA at a cost not to exceed \$7,500.00 an initial retainer of \$1,000.00 is required.

The following spoke concerning resolution # 16:

Laura Hahn and Supervisor Walters

17.

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

ADOPTED Ayes 4 Walters, Smardz, Gorman, Ziegler
 Noes 0

BE IT RESOLVED that the Town Board authorize the Buildings and Grounds Department to advertise a sealed bid for the purchase of a new 2011 F-250 4 X 4 with extended cab and 142" wheelbase. Funds are available in A.7140.202, Motor Vehicles.

18.

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

ADOPTED Ayes 4 Walters, Smardz, Gorman, Ziegler
 Noes 0

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

TOWN BOARD SEPTEMBER 27, 2010
 AUDIT OF CASH DISBURSEMENTS

VOUCHER #'S

OPERATING FUND:

BATCH #97	\$11,684.43	43629-43656
BATCH #98	\$335,498.87	43657-73707
BATCH #99	\$38,393.26	UNPROCESSED

TOTAL OPERATING FUND DISBURSEMENTS: \$385,576.56

TRUST & AGENCY:

BATCH #10	\$676.50	43628
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TOTAL TRUST & AGENCY DISBURSEMENTS: \$676.50

CAPITAL FUND DISBURSEMENTS:

BATCH #32	\$5,500.00	43627
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TOTAL CAPITAL FUND DISBURSEMENTS: \$5,500.00

PAYROLL:

TOTAL PAYROLL DISBURSEMENTS: \$0.00

PETTY CASH \$0.00

TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT: \$391,753.06

Reports from the Town Board Members and Department Heads

Supervisor Walters reads the following public notice:

**PUBLIC NOTICE
2010 30 – DAY PERIOD
FOR INCLUSION OF LANDS
INTO AN AGRICULTURAL DISTRICT**

The Erie County Legislature on September 23, 2004 designated November 1 through November 30 each year as the annual thirty-day period during which land owners may submit requests to include predominantly viable agricultural land into an existing certified agricultural district as per New York State Agriculture and Markets Law Section 303-b.

The Erie County Department of Environment and Planning (ECDEP) (Room 1063) at 95 Franklin Street Buffalo, New York 14202 will accept applications for addition into an agricultural district.

Town Supervisors, Clerks and Assessors in Erie County and ECDEP at the above-mentioned address have copies of the application form to provide to any persons requesting them.

If you have any questions or problems concerning the 30-day period process, please contact ECDEP Planner John Opalka at (716) 858-6229.

Business From the Floor

Joe Kilian, United Council of Hamburg Taxpayers Association, reads two letters from the taxpayer group. The first stating that 5 local taxpayer groups unanimously voted against the plan to place 167 windmills in Lake Erie and the second stating that they would like to commend the Town Board on the buyout plan presented to the workers. Both are on file in the Town Clerk's Office.

The following spoke concerning the windmills:

Joe Kilian and Supervisor Walters

The following spoke concerning Department Head Reports:

Steve Strnad and Supervisor Walters

19.

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

ADOPTED	Ayes	4	Walters, Smardz, Gorman, Ziegler
	Noes	0	

RESOLVED, that the Town Board move into Executive Session on a personnel matter for one specific employee and new litigation.

20.

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

ADOPTED	Ayes	4	Walters, Smardz, Gorman, Ziegler
	Noes	0	

RESOLVED, that the Town Board adjourn Executive Session at 9:15 p.m.

Catherine A. Rybczynski, Town Clerk