

Meeting No. 17
October 27, 2003
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 A. Rybczynski	Town Clerk
	Richard Boehm	Deputy Town Attorney
	James Spute	Finance Director
	Gerard Kapsiak	Town Engineer
	Drew Reilly	Planning Consultant
	Kurt Allen	Supervising Building Inspector
	Richard Crandall	Planning Board Chairman
	Joseph Wenzel	Recreation Specialist
	Joseph Coggins	Police Chief

The Pledge of Allegiance was recited.

Information on Fire Exits was provided.

Councilwoman Hochul comments that this was a special recognition evening for the many sponsors of the Blast on the Beach. She wants to give recognition to the following companies: Benderson Development, R.D. Murray, Key Bank, NYSEG, Wendel Duscherer, R & D Engineering, H & K Publications, Lake Shore Fire Police and the Locksley Park Taxpayers. She asks for a round of applause.

7:00 p.m. Public Hearing on Local Law Enforcement Block Grants Program-LLEBG - 2003.

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

LEGAL NOTICE
TOWN OF HAMBURG
NOTICE OF PUBLIC HEARING ON LAW ENFORCEMENT BLOCK GRANT

NOTICE IS HEREBY GIVEN that the Town of Hamburg will hold a public informational hearing on Local Law Enforcement Block Grants Program - LLEBG - 2003, for the Town of Hamburg Police Department. The hearing will be on October 27, 2003 at 7:00 p.m. (Local time), at Hamburg Town Hall, 6100 South Park Avenue, Hamburg, New York 14075.

All interested parties are invited to attend.

Dated: September 8, 2003

Catherine Rybczynski
Town Clerk
Town of Hamburg

There was no correspondence received on this.

Scott Fraser, Police Officer, comments that the Local Law Enforcement Block Grant Award is for \$23,254.00 and requires a local match of \$2,584.00 for a total of \$25, 838.00. This grant will be used by the Town of Hamburg Police Department to deploy traffic enforcement units to the areas in the Town where automobile crashes and fatality rates are high. This grant is in addition to the traffic enforcement units that they have deployed continuously throughout the year. These units have been very effective in reducing the number of fatalities over the last three plus years. There were eleven fatalities in Hamburg in 1998 and nine fatalities in 1999. Those two years together had a total of 20 fatalities and over the last four years they have had less than twenty total over the entire period. From 1999 to 2000 they increased tickets 32%, in 2001 they increased tickets from 1999 by 78% and they increased tickets in 2002 as compared to 1999 by 92%. As a result of redeployment, and deploying these continuously throughout the year, they have continued to reduce the number of accidents and fatalities in the Town of Hamburg.

I.

RESOLVED, that the Town of Hamburg close the Public Hearing at this time.

Moved: Hoak

Seconded: Kesner

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

Noes: None

Carried

7:15 p.m. Public Hearing for the adoption of an amendment to said Zoning Code for property owned by David and Deborah Fite located at Camp Road and Deacon Street to be rezoned from R-1 to C-1.

Catherine Rybczynski, Town Clerk, reads the following public 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 4, 2003, pursuant to the Municipal Home Rule Law, a proposed local law to be known as proposed local law #8, 2003; 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 owned by David and Deborah Fite located at Camp Road and Deacon Street. The property is to be rezoned from R-1 (Single Family Residence Attached District) to C-1 (Local Retail Business District) 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 No. Twelve (12), T-9, R-8 of Holland Land Company's Survey and according to a Map filed in the Erie County Clerk's Office under Cover 1319 is known as Subdivision lots Nos. 10 and 11, situate on the west side of Deacon Street. Liber 8517, Page 359.

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 October 27, 2003 at 7:15 p.m. (Local time), at which time all interested persons may be heard.

Dated: August 4, 2003

Catherine Rybczynski
Town Clerk
Town of Hamburg

Late Correspondence, a petition with 18 signatures, was received from residents stating that they are vehemently opposed to the rezoning of the Fite property and the expansion of Pizza Hut

Councilman Cavalcoli comments that whenever a rezoning application is received by the Town Planning Department it goes before a Code Review Committee to see if it has enough substance to be considered for rezoning and if it doesn't it never comes to the table. However, in this case the committee did recommend that it be considered for rezoning because of certain factors. 1. it is a small parcel; 2. It may increase the safety and conditions of the area around it so that fewer cars are parked on the road creating traffic and safety hazards; 3. It was felt that the applicant would make the effort to have considerable discussion with the neighbors, they did ask them to have a meeting with the neighborhood, which they did have, to work out good neighborhood relations and now it is before the Town Board.

Drew Reilly, Planning Consultant, gives an overview of the property. He describes the area stating that the problem is that Pizza Hut is on a small lot. It fronts on Camp Road and has a side entrance on Deacon Street. Everything behind it is residential. The applicant, Pizza Hut, and the property behind has asked for that property to be rezoned from residential to commercial so that they can tear down the building and put in a parking lot. The Master Plan along Camp Road is all zoned commercial, but the commercial juts in and out depending on the size of the property. The Comprehensive Plan says that all Camp Road should be Commercial and any changes to that should take a look at what is happening behind there to make sure there is proper buffering. This application has been before the Board for six months. They asked the applicant to meet with the neighbors and asked them about buffering (how could they do the parking lot without infringing upon the residential neighborhood). It has reached the point tonight where the Planning Board felt comfortable enough to recommend it to the Town Board to hold this public hearing.

Supervisor Hoak comments that although it has been at the Planning Board level for six months it will not be resolved tonight, that is the purpose of the public hearing, they want to get input both from Pizza Hut and from the residents to see if they can come up with a resolution to this. He then asks that Pizza Hut come up and make a presentation at this time.

Walt Ruda, Director of Operations for Pizza Hut, the reason they have come before the Board is that they would like to rezone the property behind their business so that they can add some parking. They have met with the neighbors and they had some nice discussions and they talked a lot about buffering and they listened to suggestions they came up with and really heard nothing that they wouldn't be more than willing to do. Hopefully they heard from Pizza Hut that they would like to be good neighbors and work with them to make it a safe neighborhood as well as a pleasing neighborhood to look at.

Supervisor Hoak asks that he show his plans to the Board and the public.

Mr. Ruda comments that the drawings show the existing house to be torn down and how the parking comes over. There is a buffer area of 35 feet with a fence and there will be no removal of existing trees. Councilwoman Kesner questions if there will be lights in the parking lot. He responds that there will be one light with a shield. There will also be a fence that would block lights from cars turning into that area. Councilwoman Hochul questions what the hours of operation are. Mr. Ruda responds they close at 11:00 p.m.

Councilman Cavalcoli questions if there are any outside speaker systems. They respond no.

Greg Feebing (Pizza Hut) describes the site plan showing where Pizza Hut is located now, showing an addition on the restaurant and relocation of the dumpster directly behind the restaurant. In actuality the parking lot would not be as close to the neighbor as the garage is. There is a large tree that will be retained and they will add additional landscaping as necessary. Councilwoman Hochul questions how high the fence would be. He responds no higher than is necessary to block the headlights of cars entering the parking lot. Drew comments that five feet is the highest without getting a variance.

Beverly Cardarelli, 5551 Deacon Street, questions if the sale of this property has gone through yet. They respond no. At the August 4th meeting they said there would be no changes to the building. Now they are showing plans changing the building. Mr. Ruda responds that this is the same drawing they showed in August and they mentioned they might want to change the building in the future. Beverly comments that they also show future parking. What do they need future parking for. Mr. Ruda responds that they don't know if they will need it but want to show it on the drawing in case it is necessary. Beverly responds that they do understand the need for parking because she has people parking on her lawn every Wednesday and Thursday. As far as noise goes, at least five times a week there are car alarms that go off in the parking lot. Then there is the boom of the radios from the cars. They are now bringing them down across the street from her house. She is also concerned about the headlights from the cars. Mr. Ruda responds that they want to situate the driveway so the lights are not shining at the houses. Beverly comments that a couple of years ago Pizza Hut was thinking of moving onto South Park because the building wasn't big enough. Why did they not move where there is more room rather than bringing it into their family neighborhood. Mr. Ruda responds that they did explore this, but they believe that they have a viable location, better than anything available along South Park. In terms of raising children, he would have the same concerns. They feel that by doing this they address some problems. This will eliminate the cars coming up and down the street for parking. They know that there are concerns and want to work with the neighbors to address those concerns. They are not trying to pull anything over on them. Beverly is concerned about the value of her home. Right now there is a home across from her house, they want to put a parking lot in there. She wouldn't have bought her home if there was a parking lot across the street. Mr. Ruda comments that he doesn't know about the value of her home, he would like to think that what they are doing to that corner will improve the neighborhood. Beverly questions the flow of traffic in and out of the parking lot. Mr. Ruda comments that they will be bringing them in through the parking lot and out onto Deacon Street. Beverly comments that at times it is almost impossible to exit Deacon Street because of the cars exiting from Arby's as well Pizza Hut. She would like to see it the other way. Mr. Ruda responds that he doesn't have a problem with that.

Councilman Cavalcoli comments that if this rezoning was approved it still has to go back to the Planning Board for final site plan approval and that is when these question would come up. There will be more opportunities for the details to be worked out.

Beverly Cardarelli comments that they would like to have input on the lighting, etc.

Councilman Cavalcoli comments that they will have the opportunity to be at the Planning Board meetings where they will discuss that. What concerned him, when he first looked at this, was the safety and the traffic and the parking.

Councilman Quatroche wants to clarify the residents position on this. They brought up the parking issue and this could possibly relieve some of that. Are the residents totally against the project or would they accept the project if they addressed the noise, headlights, etc. One issue is looking across the street and seeing a parking lot and the other issue is getting the cars off the streets and into a parking lot. Beverly comments that as of July 13th all the neighbors signed a petition against this rezoning. They would like to work something out, but this would be a huge parking lot across the street from four or five different homes. Councilman Quatroche questions if the developer were to put more plantings in to shield this from their vision would that help. Beverly comments that probably would help. They are concerned about getting the cars off the street but then they are bringing cars further down the street. Councilman Quatroche comments that one of the resolutions from this is that it will relieve traffic from the street, but, at the same time she moved into a house with a home across the street that would now be a parking lot.

Councilwoman Hochul comments that she feels Councilman Quatroche's point is well made about a visual barrier and one of the other tools they have is to put further conditions on the rezoning. If there are certain issues that are important to them that would make them more comfortable with the rezoning, the Board needs to know what those issues are so before they would vote for it they would know what would satisfy their needs. The rezoning would be conditioned upon those concerns being met and that would give it more teeth and more control. Today is just the public hearing to hear the concerns from the residents.

X.

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

Remove the R1-1 (STOP) at the intersection of Durham Road and Old Camp Road, replacing it with R9-4 a (DO NOT BLOCK SIDE ROAD). The R1-1 at Camp Road and Durham Road remains in place.

R1-1 (STOP) sign on the east side of Berkley at intersection with Tisbury, East side of Winfield at Bridlewood, East side of Bridlewood at Brookfield, Christopher Blvd. at Briercliff, and Briercliff at Briercliff.

R2-3 (AREA SPEED 30) on south side of Bridlewood at Abel, south side of Brookfield Lane at Abel.

W3-17 (DEAD END) w/W7-14 (red hazard markers) on the following streets:
Wyndfield Ct., Kendrick Pl., Tisbury Ln.

Moved: Cavalcoli

Seconded: Cavalcoli

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

Noes: None

Carried

XI.

WHEREAS, a Town-owned wooden street light pole located at the northwest corner of the Route 179 Milestrip Expressway and Old Milestrip Road was recently knocked down as the result of being hit by an errant automobile,

BE IT RESOLVED, that the Town Board authorizes Spoth Enterprises, Inc. of Angola, New York to remove the broken pole and replace it with a new wooden pole, at a cost of \$650. Funding for this work is available under Account No. SL5182.460. Following the installation of the pole, New York State Electric and Gas will install a new bracket arm, 100 watt high pressure sodium fixture, and associated wiring to restore the street lighting at this location.

BE IT FURTHER RESOLVED, that the Town Legal Department is requested to pursue recovery of the Town's expenses in this regard from the driver of the automobile.

Moved: Hochul

Seconded: Quatroche

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

Noes: None

Carried

Correspondence

128 - Supervisor Hoak refers this to the Legal Department. Mr. Boehm comments that they are already working on it.

129 - Supervisor Hoak commends Dave Swarts, County Clerk, for doing pistol permits. This frees up a couple hundred dollars from our Police Department. Asks that Councilwoman Hochul thank him.

130 - Supervisor Hoak comments that we abut eighteenmile creek and we made a commitment last month to apply for grant funding to do work along there.

131 - Supervisor Hoak comments that this was taken care of in resolution X.

133 - Supervisor Hoak thanks Councilwoman Hochul for heading up this program.

134 - Supervisor Hoak comments that this was taken care of in resolution X as well.

136 - Supervisor Hoak comments that this is concerning a drainage problem and refers this to Mr. Connolly, Highway Superintendent.

138 - Supervisor Hoak refers this to the Legal Department.

Reports From Town Board Members and Department Heads

Councilwoman Kesner reports that the Hamburg Fire Chiefs Association submitted seven names of their memberships to be placed on the plaque for the Hamburg Firefighters award for the year 2003 and she wants to announce who they are:

January	Jamie Lynn Janiszkeski	Big Tree Volunteer Fire Company
February	Tim Bantle	Blasdell Volunteer Fire Co.
March	Pat Vaccaro	Hamburg Volunteer Fire Co.
April	William Zell	Newton Abbott Volunteer Fire Co.
May	Robert Small	Scranton Volunteer Fire Co.
June	Darryl Kruszka	Scranton Volunteer Fire Co.
July	Don Hull	Lake Shore Volunteer Fire Co.

The next five names will be announced at a later date, but she wanted to submit these for the record and recognize them publically for their service.

Councilwoman Hochul comments that she would like everyone to begin their holidays by helping them Light Up the Town, Thursday November 20th at 5:30 - 7:30 p.m. at the West End Inn for \$15.00 per person or \$25.00 per couple. It is sponsored by the Town's Light Up the Town Committee which is a sub-committee of the Town's Rejuvenation Project. This is the second annual and they are raising money to make the town more beautiful during the holiday season. Your support would be appreciated. She wants to state their appreciation to the Town's Rejuvenation Committee, particularly Rosemary McManus, for working on the event this evening recognizing the people who contributed to the Blast on the Beach and also the Townwide Clean-up.

Councilman Quatroche reports that the Local Waterfront Revitalization Plan has been received and they will be having a meeting on Thursday to review the plan and will hopefully be passing that shortly and moving forward with that. This Friday they will have a Public Skate dedicated to Halloween and the golf course and Skate Park will remain open until November 1st. The Hamburg Lions Club will be donating a large sum of money to help them build a patio shelter at Taylor Road Park, they want to thank them for that. He wants to congratulate the Recreation Department, to date last year they had \$822,000 in revenue and this year they are at \$865,000. This is due to the hard work of our Recreation Department and he asks that accolades be taken back to the Department.

Gerard Kapsiak, Town Engineer, reports that the Engle Drive Sewer Project plans were approved by the Erie County Health Department a couple weeks ago and there is a bid opening scheduled for November 13th and they are hoping the work can be performed over the winter or next spring at the latest. The project will provide service to 12 homes on Engle Drive, most of which had problems with failing septic systems.

Catherine Rybczynski, Town Clerk, wants to make a note on correspondence #137 from Kimberly Krzes, that the Town Clerk's Department filed a notice of Defective Condition with the Highway Department and that issue has been resolved with Mr. Connolly's Department.

George Lee thanks the Town Board, the Blasdell Village Board, the fire departments and the Town of Hamburg Police Department. They had their parade for Red Ribbon which went over to the Fairgrounds and they had a great night.

Supervisor Hoak comments that after the diligent work of Mr. Kapsiak we did receive correspondence from the NYSDOT on Route 5 and there will be a meeting in November.

Business From the Floor

Dennis Maloney, 5783 Pinehurst Court, revisiting an issue that they thought was settled in May when they appeared before the Board about a split rail fence that is on their property. They were told the Legal Department would be sending something to sign stating that the Town would be held harmless if any damage was done to the fence by snow plows, which they stated they would be willing to do. Then, at the end of September they received a letter from the Town telling them they had to remove the fence by October 20th which came as a complete surprise to them and they responded in a letter on October 7th which was sent to the Town Board. They are now here to argue that the fence does not constitute a hazard in the right-of-way. It was originally put in to stop cars from parking on their property, they live right near the beach and there was a problem with kids parking there and going down to the beach and drinking. There were "no parking" signs put up a couple of times and the kids remove them. They put up the fence to stop the kids from parking and have been successful. It is approximately 3 to 4 feet off of the pavement so there is room to walk on the grass strip, that he always maintains, between the fence and the property. They are again asking that this be allowed to remain in the right-of-way. It should not present a hazard and it is needed to protect their property from the standpoint of protecting their property from people parking there. He would like to review all complaints so they could respond.

Elaine Mahoney wants to point out that a major issue here is the issue of safety. Where their property ends there is Pinehurst, Shoreham and Crescent. Crescent has a blind curve and a hill. Anyone coming from that side of Crescent cannot see when the cars park there. There are many young families that have moved in and when children walk up the street, if there are cars parked there, they have to go way out into the street, and anyone coming up Crescent is not going to be able to see those children. That constitutes a terrible danger. Even when there is a "no parking" sign there all the police can do is ticket the cars. That still doesn't remove the car and the danger.

Supervisor Hoak comments that they should see the Town Clerk after the meeting for a Freedom of Information request.

Councilman Quatroche thanks the Mahoney's for their professional approach to this. In an effort to help, when they originally spoke, it was his idea to see if they could do something legally that would relieve the Town of responsibility in this matter. In working with the Legal Department the conclusion was arrived at that there was no way to do that and insure the Town of no liability. Unfortunately the way to address the parking issue is not by putting up a fence in a right-a-way. The fence has to be removed because it is in the right-a-way. Originally he didn't realize how much into the right-a-way it encroached. If there are other situations where there are things that are inappropriate in the Town, bring it to their attention so they can address those also. Legally it has to be removed. Mr. Mahoney responds that he works for the City of Buffalo and they allow things in the right-a-way on a regular basis. They do an agreement that will hold the City harmless if there are things in the right-a-way. Legally there should be a mechanism because there are other things allowed in the right a-way. Elaine Mahoney comments that there is a split rail fence down the street that is right on the edge of the street. Councilwoman Kesner comments that they should get all the information together ie. correspondence and comments on this and review this with the Legal Department. Supervisor Hoak asks that everyone be copied on the Freedom of Information request including the Town Board, Building Inspection and Legal. Councilman Quatroche comments that because of the safety issue Traffic Safety should be copied also. Councilman Cavalcoli comments that the requirement to remove the fence be held in abeyance until everyone has a chance to review this.

Evelyn Janczyk, 5767 S. Dover Road, they called Mr. Connolly and he had a Mr. Boswell contact them. They had sent in a letter telling them that in the past when plows come down the road they back up into their neighbors driveway. Last year they called, but the same thing happened. They also damaged their mailbox. Supervisor Hoak comments that they will take care of their mailbox, but as far as the situation so that it does not occur again, he asks for her phone number after the meeting and he will call her after talking to Mr. Boswell.

XIV.

RESOLVED, that the Town Board adjourn to Executive Session at 8:30 p.m. to discuss a personnel matter.

Moved: Hoak

Seconded: Kesner

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

Noes: None

Carried

Catherine Rybczynski, Town Clerk

Correspondence - October 27, 2003

125 - To Supervisor Hoak from the Town Clerk's Office, the monthly report for September with receipts totaling \$88,302.74

126 - To Supervisor Hoak from Congressman Jack Quinn stating he recently signed a letter to President Bush asking for support on a bill that would provide \$100 million in emergency funding for the AmeriCorps program.

127 - To the Town Board from the U.S. Army Corps of Engineers asking the Town to review the enclosed EA/FONSI for Route 5 at Athol Springs Section 103 Shoreline Protection Project.

128 - To the Town Board from Mr. & Mrs. John Andreef, 4859 Milestrip Road and Mr. & Mrs. Drewiga requesting that the Town abandon the paper road that currently exists between their two properties.

129 - To Supervisor Hoak from David Swarts, County Clerk, informing him of a new service that will be available to residents who apply for pistol permits. Applicants who come to their office will be offered the opportunity to have photos and fingerprinting conducted on the spot, creating a one-stop service for the residents.

130 - To Supervisor Hoak from Cally Miklasz, Erie County Soil & Water Conservation District, stating that they are pleased to announce that the proposal for the Eighteenmile Creek Streambank Stabilization and Stream Protection Partnership Program was submitted on September 30, 2003. The District will contact the Town when they receive notification on the status of grant funding.

131 - To Catherine Rybczynski, Town Clerk, from Jennifer Carr, 3281 Durham Rd., commenting that the corner of Camp Road and Durham Road is very dangerous due to the high volume of traffic entering and exiting, a traffic light would solve the problem. Additionally, approaching Camp on Durham Road there are two stop signs and no one stops for the first stop sign, also people line up bumper to bumper illegally blocking Old Camp Road.

132 - To Catherine Rybczynski, Town Clerk, from John Haggerty, Director of Regional and Local Government Affairs, acknowledging receipt of a resolution, sent to Gov. Patacki, that the Town Board adopted regarding bottle bill legislation.

133 - To Kathy Hochul from Rev. Msgr. John Zeitler, Our Lady of Perpetual Help, thanking her for promoting the recognition of their church with the presentation of the Beautification Award on September 8th.

134 - To the Town Board from residents in the vicinity of Tisbury Lane and Berkley Place, a petition with 100 signatures requesting a stop sign for northbound traffic on Berkley Place and its intersection with Tisbury Lane and the installation of a no outlet sign on the north side of Tisbury Lane approximately 10 feet east of Regents.

135 - To Supervisor Hoak from Assemblyman Smith thanking him for contacting his office regarding the bottle bill legislation. Stating he will do whatever he can to advance this issue.

136 - To the Town Board from Scranton-McKinley Taxpayers Association stating that at their September meeting they discussed the drainage problem that exists between Adams St and Electric Ave., and they discussed the accumulation of tree branches and leaves on Scranton Road at the playground entrance. Asking that these issues be addressed.

137 - To Mr. Jim Connolly, Highway Superintendent from Kimberly Krzes, 4332 East Frontier Dr., notifying him that the sidewalk in front of her home has been lifting and making several cracks along their section of sidewalk.

138 - To the Town Planning Board from David Hollins and Steven Hollins requesting the abandonment of paper streets known as Dorchester Pkwy and Highland Pkwy to better subdivide suitable building lots.

