

A regular meeting of the Town Board of the Town of Hamburg, County of Erie and State of New York was held at the Town Hall, S-6100 South Park Avenue, Hamburg, New York on the 10th day of November 2008.

TOWN BOARD MEMBERS

PRESENT:

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

OTHERS PRESENT: Catherine A. Rybczynski, Town Clerk; Mary Dosch, Sr. Account Clerk; Gerard Kapsiak, Town Engineer; Robert E. Hutchison, Jr., Town Assessor; R. Krautsack, Working Crew Chief; Drew Reilly, Planning Consultant; Martin Denecke, Director of Recreation; Carmen Kesner, Chief of Police; Kenneth Farrell, Town Attorney; Kurt Allen, Supervising Code Enforcement Officer.

Pledge of Allegiance was recited.

Information on fire exits was provided.

Catherine A. Rybczynski, Town Clerk, reads the legal notice as published in the Sun and Front Page.

There were absent:

Also present: Catherine Rybczynski, Town Clerk and Kenneth J. Farrell, Town Attorney

* * *

The Town Clerk stated that a public hearing had been called for this meeting at the Town Hall, in the Town of Hamburg, in the County of Erie, New York, at 7:00 o'clock P.M. (Prevailing Time) to consider the construction of a water improvement in an unincorporated area of the Town outside of any villages, which area has been determined to be the benefitted area (herein referred to as the "Hamburg Master Water Improvement Area-2008A"), pursuant to Article 12-C of the Town Law. The Town Clerk presented affidavits showing that certified copies of the Order calling for said public hearing had been duly published and posted pursuant to the provisions of Article 12-C of the Town Law.

The Supervisor stated that said public hearing on said matter was now open and asked if there was any interested person who desired to be heard.

Gerard Kapsiak, Town Engineer, supplied a presentation and notes this is the second of three public hearings.

The following persons appeared in favor of said proposed water improvement:

The following persons appeared in opposition to said proposed water improvement:

The Supervisor inquired as to whether there were any other persons present who wished to be heard.

Ferd Garcia questions considering the overall cost, how is that will be put into the tax rate per thousand.

Mr. Kapsiak, Town Engineer, responds that it will be approximately \$15.50 charge per \$100,000 of assessed value.

1.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

RESOLVED, that the Town Board close the public hearing.

* * *

CERTIFICATE

I, CATHERINE RYBCZYNSKI, Town Clerk of the Town of Hamburg, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Town Board of said Town, duly called and held on November 10, 2008, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town this 10th day of November, 2008

(SEAL)

Town Clerk

2.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

RESOLUTION OF THE TOWN OF HAMBURG, NEW YORK,
ADOPTED NOVEMBER 10, 2008, APPROVING
CONSTRUCTION OF A WATER IMPROVEMENT WITHIN THE
HAMBURG MASTER WATER IMPROVEMENT AREA-2008A,
AN AREA OF THE TOWN OUTSIDE OF ANY VILLAGES,
WHICH HAS BEEN DETERMINED TO BE THE BENEFITED
AREA, AND MAKING OTHER DETERMINATIONS IN
CONNECTION THEREWITH

Recitals

WHEREAS, the Town Board of the Town of Hamburg, in the County of Erie, New York (herein called the "Town Board" and "Town" respectively), proposes to construct a water improvement, consisting of the replacement of approximately 11,460 linear feet of existing substandard or deficient waterlines along Columbia Street, Princeton Street, Pittsburg Street, Old Sowles Road, Scranton Road, Milestrip Road and Lincoln Avenue; and the disconnection and abandonment of approximately 2,850 linear feet of unnecessary dual parallel watermains on Mount Vernon Boulevard, Walbridge Drive, Durham Road, Johnson Street, McKinley Parkway, Lakeview Road and Big Tree Road; all of the foregoing to include any other related work, original furnishings,

equipment, machinery and apparatus required in connection therewith (herein designated and called the “Water Improvement” or the “Hamburg Master Water Improvement-2008A”); all within an unincorporated area of the Town outside of any villages, which area has been determined to be the benefitted area (herein referred to as the “Hamburg Master Water Improvement Area-2008A”), pursuant to Article 12-C of the Town Law, in accordance with the map, plan and report prepared therefor by Gerard M. Kapsiak, P.E., Town Engineer, a competent engineer duly licensed by the State of New York, heretofore filed in the office of the Town Clerk for public inspection; and

WHEREAS, the Town Board has given due consideration to the impact that the Water Improvement may have on the environment and, on the basis of such consideration, the Town Board has determined that the project is a Type II action for purposes of the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, therefore, no further environmental review is necessary; and

WHEREAS, the maximum amount proposed to be expended for the construction of such Hamburg Master Water Improvement-2008A is estimated to be \$1,738,000, which is planned to be financed by the expenditure of \$165,000 in available funds to pay a part of the cost, the issuance of serial bonds of the Town in the principal amount of \$1,573,000 to finance the balance of the cost, and the levy and collection of assessments upon the several lots and parcels of land within the Hamburg Master Water Improvement Area-2008A which the Town Board shall determine to be especially benefitted by the Water Improvement, so much upon and from each as shall be in just proportion to the amount of benefit which the Water Improvement shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable; and

WHEREAS, the Town Board determined to proceed with the construction of such Water Improvement and adopted an Order on October 6, 2008, reciting a description of the improvements proposed, a description of the proposed benefited area, the proposed method of financing to be employed, the fact that a map, plan and report describing the same are on file in the Town Clerk's Office for public inspection and specifying November 10, 2008 at 7:00 o'clock P.M. (Prevailing Time) as the time when, and the Town Hall, in the Town, as the place where, the Town Board would meet to consider the construction of such Water Improvement and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town in relation thereto as may be required by law; and

WHEREAS, certified copies of such Order were duly published and posted pursuant to the provisions of Article 12-C of the Town Law; and

WHEREAS, a public hearing in the matter of the construction of the proposed Hamburg Master Water Improvement-2008A was duly held by the Town Board on the 10th day of November, 2008, commencing at 7:00 o'clock P.M. (Prevailing Time) at the Town Hall, in the Town, at which all interested persons desiring to be heard were heard, including those in favor of, and those opposed to, the construction of said Hamburg Master Water Improvement-2008A;

Now, therefore, upon the evidence adduced at such public hearing, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF HAMBURG, IN THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. It is hereby determined that:

(a) the notice of public hearing was published and posted as required by law, and is otherwise sufficient, and

(b) it is in the public interest to construct the Hamburg Master Water Improvement-2008A, described in the recitals hereto, within the Hamburg Water Improvement Area-2008A, at the estimated maximum cost of \$1,738,000.

(c) all the property in the proposed Hamburg Master Water Improvement Area-2008A is benefited by the Hamburg Master Water Improvement-2008A and all the property benefited by the Hamburg Master Water Improvement-2008A is included in the proposed Hamburg Master Water Improvement Area-2008A.

Section 2. The construction of the Hamburg Master Water Improvement-2008A within the Hamburg Master Water Improvement Area-2008A is hereby approved, as hereinabove described, and such improvement is hereby authorized to be constructed within the Hamburg Master Water Improvement Area-2008A, in the Town, situate wholly outside of any incorporated village, and said Hamburg Master Water Improvement Area-2008A is more particularly bounded and 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 Range 7 and 8 of Township 10 and Range 7 and 8 of Township 9 of the Holland Land Company's Survey, excluding those lands located in the Village of Hamburg and the Village of Blasdell, existing Erie County Water Authority direct service customers and that portion of the Town of Hamburg presently serviced by the Village of Blasdell water system

Section 3. The maximum amount proposed to be expended for the construction of such Hamburg Master Water Improvement-2008A is estimated to be \$1,738,000, which is planned to be financed by the expenditure of \$165,000 in available funds to pay a part of the cost, the issuance of serial bonds of the Town in the principal amount of \$1,573,000 to finance the balance of the cost, and the levy and collection of assessments upon the several lots and parcels of land within the Hamburg Master Water Improvement Area-2008A which the Town Board shall determine to be especially benefited by the Water Improvement, so much upon and from each as shall be in just proportion to the amount of benefit which the Water Improvement shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable.

Section 4. The said \$1,738,000 estimated cost of the Water Improvement, does not exceed one-tenth of one per centum of the full valuation of the taxable real property in the area of the Town outside of any villages, and the permission of the Comptroller of the State of New York is therefore not required in order to finance the cost of said Water Improvement, as herein described, pursuant to the provisions of said Town Law.

Section 5. The Town Clerk of the Town is hereby authorized and directed to record a certified copy of this resolution, within ten (10) days of its adoption, in the office of the County Clerk of Erie County.

Section 6. This resolution shall take effect immediately.

The adoption of the foregoing resolution was seconded by Councilman Quatroche and duly put to a vote on roll call, which resulted as follows:

AYES: 5 Walters, Best, Kesner, Quatroche, Smardz

NOES: 0

The resolution was declared adopted.

CERTIFICATE

I, CATHERINE RYBCZYNSKI, Town Clerk of the Town of Hamburg, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing Resolution Authorizing Construction of a Water Improvement dated November 10, 2008 has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town this 10th day of November, 2008

(SEAL)

Town Clerk

Road and Big Tree Road; all of the foregoing to include any other related work, original furnishings, equipment, machinery and apparatus required in connection therewith (herein designated and called the "Water Improvement" or the "Hamburg Master Water Improvement-2008A"); at the estimated maximum cost of \$1,738,000, all within an unincorporated area of the Town outside of any villages, which area has been determined to be the benefited area (herein referred to as the "Hamburg Master Water Improvement Area-2008A"), pursuant to Article 12-C of the Town Law, in accordance with the map, plan and report prepared therefor by Gerard M. Kapsiak, P.E, Town Engineer, a competent engineer duly licensed by the State of New York, heretofore filed in the office of the Town Clerk for public inspection; and

WHEREAS, after a public hearing duly called and held, the Town Board of the Town determined that it is in the public interest to construct said Water Improvement, and ordered that such Water Improvement be constructed at the estimated maximum cost of \$1,738,000;

Now, therefore, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF HAMBURG, IN THE COUNTY OF ERIE, NEW YORK (by the favorable vote of not less than two-thirds of all the members of said Town Board) AS FOLLOWS:

Section 1. The Town hereby appropriates the amount of \$1,738,000 for the construction of the Hamburg Master Water Improvement-2008A within the Hamburg Water Improvement Area-2008A, in accordance with the map, plan and report prepared therefor by Gerard M. Kapsiak, P.E, Town Engineer, a competent engineer duly licensed by the State of New York, on file in the office of the Town Clerk and heretofore approved by the Town Board of the Town. The estimated maximum cost of construction of said Hamburg Master Water Improvement-2008A,

including preliminary costs and costs incidental thereto and the financing thereof, is \$1,738,000. The plan of financing includes the expenditure of \$165,000 in available funds to pay a part of said appropriation, the issuance of \$1,573,000 in bonds of the Town to finance the balance of said appropriation, and the levy and collection of assessments upon the several lots and parcels of land within the Hamburg Master Water Improvement Area-2008A which the Town Board shall determine to be especially benefited by said Water Improvement, so much upon and from each as shall be in just proportion to the amount of benefit which the Water Improvement shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable.

Section 2. Serial bonds of the Town in the principal amount of \$1,573,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance a part of said appropriation.

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness of the object or purpose for which said bonds are authorized to be issued, within the limitations of Section 11.00 a. 4. of the Law, is forty (40) years.

(b) The proceeds of the bonds herein authorized, and any bond anticipation notes issued in anticipation of said bonds, may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized, or for expenditures made on or before such effective date if the Town has made a prior declaration of intent to issue indebtedness for such purpose. The foregoing statement of intent with respect to

reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

Section 4. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the Town without limitation of rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00 and Sections 56.00 to 60.00 and Section 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to the execution of agreements for credit enhancements, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This resolution shall take effect immediately and the Town Clerk is hereby authorized and directed to publish a summary thereof in “The Sun” and “Front Page,” newspapers having general circulation in the Town of Hamburg, and hereby designated as the official newspapers of the Town for such publication, together with the Town Clerk’s statutory notice in substantially the form as prescribed by Section 81.00 of the Local Finance Law of the State of New York.

The adoption of the foregoing resolution was seconded by Councilwoman Kesner and duly put to a vote on roll call, which resulted as follows:

AYES: 5 Walters, Best, Kesner, Quatroche, Smardz

NOES: 0

This resolution was declared adopted.

CERTIFICATE

I, CATHERINE RYBCZYNSKI, Town Clerk of the Town of Hamburg, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing Bond Resolution dated November 10, 2008 has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said original resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town this 10th day of November, 2008

(SEAL)

Town Clerk

4.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

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

11/3/08 Budget hearing

5.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

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

- | | | | |
|------------------------|----------------|---------|-----------|
| 1. Cahill, Christopher | Laborer, Seas. | 11/3/08 | Terminate |
| 2. Cahill, Christopher | Laborer, P/T | 11/4/08 | \$7.75 |
| 3. Nelson, Brett | Laborer, Seas. | 11/3/08 | Terminate |
| 4. Nelson, Brett | Laborer, P/T | 11/4/08 | \$7.98 |

Ferd Garcia questions why the rate of pay for a laborer here differs from the pay rate of a laborer in Highway.

Supervisor Walters replies that this is a part time position versus a full time position. The full time positions are controlled by union contracts.

Councilwoman Kesner questions Mr. Hutchison as to how this is being paid for, whether it's through the STAR money.

Mr. Hutchison replies that each department in their budget has the funding.

6.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

BE IT RESOLVED, that the Town Board approve the purchase of the annual software maintenance agreement with ESRI, Inc. For the six ArcGIS software licenses used in the following departments: Assessing, Engineering, Building Inspection and Emergency Management. Total cost is \$1,795.00

BE IT FURTHER RESOLVED, that the Town Board authorize the Supervisor to sign the agreement.

7.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

RESOLVED, that the Town Board approve the terminations in the Recreation Department as follows:

- | | | | |
|------------------------|------------|----------|-------------|
| 1. Diplock, Megan | A7180(215) | 11/3/08 | Terminate |
| 2. Kustra, Christopher | A7180(215) | 11/3/08 | Terminate |
| 3. Boswell, David | A7180(215) | 11/3/08 | Terminate |
| 4. McFall, John | A7265(230) | 11/11/08 | \$10.25 P/T |

8.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

WHEREAS, the Town of Hamburg received a request from Richard J. Izzo, Richard R. Izzo and Nicholas Izzo to rezone property located on the east side of Camp Road, adjacent to the NYS Thruway from RA (Residential-Agricultural) to C-1 (local Retail Business District), and

WHEREAS, the Code Review Committee reviewed the application and found merit in the rezoning of this property, and

WHEREAS, pursuant to Part 617.6 NYCRR Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]), the Town Board of the Town of Hamburg did declare itself Lead Agency and initiated a Coordinated Review; and

WHEREAS, the Town Board held a public hearing regarding this rezoning request on July 14, 2008; and

WHEREAS, the Town Board has reviewed comments received and considered the impacts of rezoning this property, pursuant to Part 617.7 NYCRR Article 8 of the Environmental Conservation Law (State Environmental Quality Review [SEQR]).

NOW, THEREFORE, BE IT RESOLVED, that the Town Board issues the attached Determination of Significance for a Negative Declaration with the understanding that the development of this site is being segmented from the rezoning because development is too speculative at this time and with the understanding that any subsequent development projects proposed for this site will require their own SEQR analysis; and

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

Drew Reilly notes that this is an inserted resolution that was missed. There were two resolutions for the Izzo rezoning that look the same.

Councilwoman Kesner notes that she doesn't have a problem with rezoning this to C-1 in lieu of the fact of what's going on across the street. With the Leisureland complex a 250' buffer for the residents, now looking at this she asked for more than a 50' buffer. She asks if the committee took a look at allowing for a larger buffer.

Mr. Reilly responds that it is the next resolution. They are segmenting the review of the development of the site so when someone comes in with a proposal the SEQR will have to be redone and redo the environmental analysis.

9.

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

was

ADOPTED Ayes 4 Walters, Best, Quatroche, Smardz
 Noes 1 Kesner

WHEREAS, the Town of Hamburg received a request from Richard J. Izzo, Richard R. Izzo and Nicholas Izzo to rezone property located on the east side of Camp Road, adjacent to the NYS Thruway, from RA (Residential-Agricultural) to C-1 (Local Retail Business District); and

WHEREAS, the Code Review Committee reviewed the application and found merit in the rezoning of this property; and

WHEREAS, the Hamburg Town Board referred this rezoning request to the Planning Board for its review and recommendation; and

WHEREAS, on May 21, 2008 the Planning Board forwarded a positive recommendation to the Town Board regarding this rezoning request; and

WHEREAS, the Town Board held the required public hearing and received comments from the public regarding this rezoning request on July 14, 2008; and

WHEREAS, the requested rezoning is in compliance with the new Town of Hamburg Comprehensive Plan; and,

WHEREAS, the Hamburg Town Board has issued a Negative Declaration;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Hamburg hereby rezones the parcel located on the east side of Camp Road, adjacent to the New York State Thruway from RA (Residential Agricultural) to C-1 with the following conditions:

1. All structures shall be limited to a maximum of 35 feet in height.
2. No buildings shall be allowed within 50 feet of the residential properties along Dartmouth Street (50 foot setback area) and no paved surfaces shall be allowed within 30 feet of the property line (buffer area).
3. The required 30 foot buffer area to Dartmouth residential lots shall include a planted berm and other landscaping to assist with screening this site from the residential area. As much of the existing vegetation as possible shall be maintained in its natural state.
4. If the new access road is located less than 30 feet from the property line along Dartmouth Street in the area of the existing Izzo building, appropriate buffering shall be provided (fencing, berms, landscaping, etc.)
5. No vehicular access shall be allowed onto Dartmouth Street.
6. A properly designed drainage system meeting all State and Town requirements shall be provided for the development of this site and shall include provisions to intercept water running onto the adjoining residential properties.

7. Wetland areas and other natural areas in the northeastern corner of the site shall be delineated and preserved to the maximum extent practicable to allow for a buffer to Thruway operations.
8. The applicant shall provide a cross access agreement to the adjoining motel/hotel to allow for cross vehicle access to the new access road that will be developed for this site.
9. The new access road for this site shall connect onto Camp Road and will be designed to meet all State standards (assumed to be a signalized location) and shall be coordinated with the potential redevelopment (and its new access road) project located across Camp Road (Hamburg Crossings project).

BE IT FURTHER 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 RA to C-1 for property located on the east side of Camp Road, adjacent to the New York State Thruway.

Supervisor Walters notes that this is some of the issues brought up and there are some residents of Dartmouth here as well as the Izzos

Drew Reilly comments that the two issues that have always been discussed is the amount of buffer and the other is to have access onto Dartmouth.

Councilwoman Kesner notes that this piece of property has always been a challenge. Her concern is the residents and having the Thruway there and all the activity in their backyard.

Councilman Quatroche asks Drew if there will be any specifics on the berm when it gets to site plan.

Drew responds that whether it's 30 or 50' buffer, there are some areas where the trees have already been taken down, in those areas it will be important to have a planted berm.

Supervisor Walters notes that this Town Board does have a lot of concerns and the Izzo's were very accommodating with a lot of those concerns. Specifically down zoning from a C-2 request to a C-1 request to eliminate a lot of the more controversial uses.

Mr. Reilly notes that the Izzos agreed that if the Board was to pass this whether it's 30 or 50' they have to submit a deed restriction to the Town so down the road the condition on the property will be stated.

Councilman Best notes that some of the conditions like #4 & #9 are very vague. He questions how binding the conditions are.

Mr. Reilly responds that they are pretty binding.

Councilman Best notes that the abandonment of the paper street will come after this is all done.

Drew Reilly comments that this is how it will be guaranteed that condition is in place. The Izzo's are just as concerned that if for some reason the project across the street doesn't go in they will be stuck with getting access onto Camp Road probably by signalized intersection. That's the only way to get access.

Supervisor Walters notes they have access on Camp Rd.

Mr. Reilly notes they have access but you have to make it work.

Councilwoman Kesner notes that it would be so much easier if there were details of what is going there on both sides.

Mr. Reilly responds that there is a plan in place the DEIS has been submitted. Benderson's plan across the street.

10.

On a motion of Supervisor Walters, seconded by Councilman Best, the following resolution was
ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

WHEREAS, the Town of Hamburg amended the Zoning Code of the Town of Hamburg (Chapter 280) in 2005 to require a "minimum distance between dwelling units" of 15 feet in all cluster developments (Section 280-282G); and

WHEREAS, this was done for fire safety reasons; and

WHEREAS, there are other methodologies to help ensure fire safety beyond a large setback between buildings; and

WHEREAS, the Code Review Committee has recommended that the code could be amended as follows:

280-282"G: Minimum distance between dwellings units: 15 feet. This separation distance can be reduced to 12 feet with the additional fire safety provision of a sprinkler system."

NOW, THEREFORE, BE IT RESOLVED that the Hamburg Town Board hereby schedules a public hearing on this proposed code revision for December 8, 2008 at 7:00 PM.

11.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

WHEREAS, the Town of Hamburg has had numerous requests to re-evaluate the issue of “public mini storage” and to clarify interpretations of the existing zoning law relating to this issue; and

WHEREAS, the Code Review Committee, in conjunction with the Planning Department and Code Enforcement Officer, has evaluated this issue and determined that amendments to the code are necessary; and

WHEREAS, the Code Review Committee has created proposed zoning revisions to Sections 280-81, 280-119 and 280-326 and have recommended these changes to the Town Board.

NOW, THEREFORE, BE IT RESOLVED that the Hamburg Town Board hereby schedules a public hearing on these proposed zoning revisions for December 8, 2008 at 7:00 PM.

BE IT FURTHER RESOLVED that the Town Board authorizes the completion of the appropriate publications and notifications relating to this action.

12.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

WHEREAS, the Town of Hamburg has received correspondence from Mr. W. Jay Milligan, including the attached letters from four additional property owners on Southwestern Boulevard, requesting that their properties be rezoned in accordance with the Town’s Comprehensive Plan to commercial; and

WHEREAS, the Town of Hamburg has considered this rezoning in the past and the Comprehensive Plan does support the rezoning of properties to commercial in this area; and

WHEREAS, the Code Review Committee has reviewed this request and agrees that the area should be investigated.

NOW, THEREFORE, BE IT RESOLVED that the Hamburg Town Board finds merit in this request and authorizes the Planning Department, Planning Board and Code Review Committee

to formulate a recommendation on rezoning in the general area of Southwestern Boulevard between Camp Road and South Park Avenue for consideration by the Town Board.

Supervisor Walters adds that in conducting their investigation in this area he's asking that the Planning Department and Planning Board and Code Review Committee make no recommendations to the Town Board without first contacting each individual property owner.

Drew Reilly responds that these five properties are right across the street from Michael's Banquet facility.

13.

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

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

WHEREAS, The Town of Hamburg, in accordance with the Town's Comprehensive Plan and its proposed Local Waterfront Revitalization Plan (LWRP), has proposed zoning map amendments in the northwest sector of the Town along the waterfront; and

WHEREAS, the zoning map amendments include the rezoning of numerous properties to Waterfront Commercial (WC); and

WHEREAS, the Town of Hamburg Code Review Committee has generated the proposed map amendments and recommended them to the Town Board; and

WHEREAS, pursuant to Part 617.6 NYCCR Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act [SEQR]), the Town Board has reviewed comments received and considered the impacts of this rezoning; and

WHEREAS, the Town of Hamburg has held the required public hearing on this rezoning on August 11, 2008, has held other public input sessions and has received correspondence on this action; and

NOW, THEREFORE, BE IT RESOLVED that the Town of Hamburg has determined that the proposed action is not anticipated to result in a significant negative effect on the environment and that a Negative Declaration is hereby issued.

14.

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

ADOPTED	Ayes 5	Walters, Best, Kesner, Quatroche, Smardz
	Noes 0	

WHEREAS, The Town of Hamburg, in accordance with the Town’s Comprehensive Plan and its proposed Local Waterfront Revitalization Plan (LWRP), has proposed zoning map amendments in the northwest sector of the Town along the waterfront; and

WHEREAS, the zoning map amendments include the rezoning of numerous properties to Waterfront Commercial (WC); and

WHEREAS, the Town of Hamburg Code Review Committee has generated the proposed map amendments and recommended them to the Town Board; and

WHEREAS, the Town of Hamburg has held the required public hearing on this rezoning on August 11, 2008, has held other public input sessions and has received correspondence on this action; and

WHEREAS, the Town of Hamburg has completed the required SEQR evaluation and has issued a Negative Declaration.

NOW, THEREFORE, BE IT RESOLVED that the zoning map be amended in accordance with the proposed zoning revisions presented at the public hearing (map dated August 11, 2008) with the following changes:

Remove the rezoning for the Snyder Tank property and Mr. Hoelzl’s property located at 3984 Lake Shore Road.

BE IT FURTHER 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 to Waterfront Commercial (WC) for numerous properties in the northwest sector of the Town currently zoned C-2 and M-2.

15.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

WHEREAS, bids were opened on November 6, 2008 for the hydrant replacement contract which is part of the overall Hamburg Water System Improvement Project; and

WHEREAS, twelve bids were received, which are summarized as follows:

<u>Bidder</u>	<u>Total Bid</u>
E&R General Construction, Inc.	\$ 641,900.50
Visone Construction, Inc.	\$ 678,920.00
W.C. Roberson	\$ 724,400.00
New Frontier Excavating	\$ 728,599.50
Villager Construction	\$ 750,400.00
Mark Cerrone, Inc.	\$ 784,422.00
M.L. Smith Construction	\$ 796,525.00
Occhino Corp.	\$ 829,967.25
Fairway Contracting	\$ 929,419.90
Mar-Wal Construction	\$ 944,720.00
Scott Lawn Yard	\$1,097,500.00
Kandey Company, Inc.	\$1,407,250.00

WHEREAS, the bids have been reviewed by CRA Infrastructure & Engineering, Inc., who determined that E&R General Construction, Inc. is a qualified and responsible bidder, and recommended that the contract be awarded to them,

THEREFORE BE IT RESOLVED, that the contract for this project is awarded to E&R General Construction, Inc., of West Seneca, New York in the amount of \$641,900.50, that the Town Supervisor is authorized to sign the contractual agreement with their firm, and that the Town Engineer is to issue the Notice of Award and Notice to Proceed at the appropriate times. Funding for this work is to be from previously budgeted Town water district funds, as authorized by a resolution adopted by the Town Board on October 27, 2008.

Councilman Best questions if this resolution has anything to do with the hydrants being delivered to the Highway Department.

Gerard Kapsiak, responds that it does. The hydrants that are being delivered will be installed by this contract.

Supervisor Walters adds that E & R General Construction, Inc. is the low bid out of the twelve.

16.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

WHEREAS, certain property maintenance concerns have persisted since the initial demolition of the abandoned restaurant facility located at 4178 Lakeshore Road (formerly known as “Foits”) and,

WHEREAS, in order to fully complete the demolition and mitigate the remaining site concerns it was the determination of the Town Board to contract additional site work to be undertaken at said premises.

THEREFORE, BE IT RESOLVED, the Town Board approve the work proposals as submitted from the following firms in the amounts stated:

Monckton Trucking and Excavating-----	\$ 6,800.00
T.C. Notaro Contracting-----	\$ 4,750.00
* Total Cost-----	\$11,550.00

NOW, BE IT FURTHER RESOLVED, that Town Board authorize the Town Code Enforcement official to administer the necessary remedial work to render the property safe.

* 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 A599 to A3620.469 to finance this work.

BE IT FURTHER RESOLVED, that the Town Board authorize the Town Attorney to institute the appropriate actions against the property owner of 4178 Lakeshore Road for recovery of costs incurred by the Town in connection with these proceedings as provided by Local Law No. 5-1972.

Councilman Quatroche notes that the attorneys office for all the work on this and building inspector, it’s been a long time coming getting this property cleaned up and if it wasn’t for the work of these departments and their ability to get done, it may have been awhile for this to get done. Councilman Quatroche publicly thanks them for all their work and dedication on this.

Joe Killian questions if the Town is taking care of this property.

Councilman Quatroche responds that they did not purchase the property. The building was condemned.

Kenneth Farrell responds that the best way to characterize this is the final step of the demolition process. The reimbursement is handled through the County after it’s submitted with the proper certifications it’s added as a lien on the property.

Joe Killian questions who does the maintenance.

Ken Farrell notes that the Town has no obligation, the Town is not the owner, if any work is done on it in the future under another subdivision of the code this will be submitted to the County.

17.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 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 December 1, 2008 at 11:00 a.m.

Councilman Best asks Chief Kesner what the communication console system consists of.

Chief Kesner responds it’s the new dispatch area.

18.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

RESOLVED, that the Town Board approve the audit of cash disbursements as follows:

OPERATING FUND:		VOUCHER #S
BATCH # 127	\$ 30,071.14	30148-30210
BATCH # 128	\$393,053.55	UNPROCESSED
BATCH #		
TOTAL OPERATING FUND DISBURSEMENTS:		\$423,124.69
TRUST & AGENCY		
BATCH #		
BATCH #		
TOTAL TRUST & AGENCY DISBURSEMENTS:		\$0.00
CAPITAL FUND DISBURSEMENTS:		
BATCH # 67	\$290,013.92	UNPROCESSED
BATCH #		
TOTAL CAPITAL FUND DISBURSEMENTS:		\$290,013.92
PAYROLL:		
PR #		
TOTAL PAYROLL DISBURSEMENTS:		\$0.00
PETTY CASH		\$0.00
TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT:		\$713,138.61

Reports from the Town Board and Departments

Councilman Smardz reminds everyone that Thursday Senior Services will have their Harvest Ho-down at the Oakwood Manor on Lakeview Rd. it starts at 5:00 p.m. and there will be dancing, music and games for the kids. For more information call them at 646-0665.

Supervisor Walters wishes everyone a happy Veterans Day. There are two ceremonies going on in the Town. The first one at 10:45 at the American Legion Post 527 and the second is at 2:00 at the Veterans of Foreign War Post 1419 on Lakeview Rd. These are open to the public.

Catherine Rybczynski adds that with the help of Legislator Bob Reynolds office, HEAP will be at the Town Hall in conference room 7B on November 26th from 8:00 - 4:00. This year they will handle everyone who comes in.

Chief Kesner notes that channel 4 will be reporting on the scams that have occurred in the area.

George Lee notes that Blasdell has been quiet. He hopes that everyone honors the veterans.

Reports from the public

George Lee reports he wishes the sidewalks will be considered for Blasdell too. The people who walk do not have any protection through the town and into Blasdell.

Supervisor Walters adds that last week there were petitions turned in to the Town requesting that this Town Board forwarded copies of those signatures to our State representatives and ask the State to look at the road to do that very thing.

Ferd Garcia questions the waterfront district and if it is already included in the code book.

Supervisor Walters responds that it has to be added.

Peter Duchmann thanks the Board for allowing him to speak. He explains that his reason for speaking tonight is because of a call he received from Kurt Allen regarding a permit that was about to be issued to Lamar for an electronic message board located on Peter's property at the seven corners on an existing billboard. He questions why the Supervisor and Town Attorney would allow this to happen when it's not in compliance with Local Law No., 1986 Zoning Article XXIV, Paragraph I Section 280-261, numbers 4, 5, 9, 7 & 11. He doesn't feel this is right and wants the Town to deny Lamar a permit on his property. Mr. Duchmann questions if anyone on the board has talked to Lamar.

Supervisor Walters responds that they did talk to Lamar but not on this issue.

Ken Farrell responds that he has not talked to Lamar about this issue at all.

Mr. Duchmann asks Mr. Farrell how he would interpret this law that has just been put on the books.

Mr. Farrell responds that he is bound not to give advice to a citizen when he has a clear duty to advise the board on the same matters.

Mr. Duchmann then asks for an explanation as to why Lamar was suppose to appear at a zoning board of appeals hearing in October but then withdrew the application.

Mr. Farrell responds that his understanding is that there was a call for interpretation of the very new local law regarding these signs. The building inspector made a determination and that's where it is.

Mr. Duchmann notes that when Lamar first went to building inspection for the permit, they were told that they were going to need to see the zoning board of appeals.

Kurt Allen responds that it was their initial interpretation.

Ken Farrell responds that the building inspector made his determination and there is a grand fathering in the code. There may be differing of the interpretation.

Mr. Duchmann thanks the board for their time and would like them to look into this and discuss this when they move to executive session.

Ferd Garcia questions whose idea it was to increase the salary of the board.

Supervisor Walters responds that the public hearing did list an increase in the Town Board's salary in line with the increase of every other town employee receives. He wants Ferd to keep in mind that this was the second straight year the town board lowered the tax rate. He then thanks everyone for coming tonight.

19.

On a motion of Supervisor Walters, seconded by Councilman Best, the following resolution was
ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

RESOLVED, that the Town Board move to executive session at 8:17 p.m.

20.

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

ADOPTED Ayes 5 Walters, Best, Kesner, Quatroche, Smardz
 Noes 0

RESOLVED, that the Town Board adjourn executive session at 9:10 p.m.

Catherine A. Rybczynski, Town Clerk