

Meeting No. 23  
December 8, 1997  
Hamburg Town Board Meeting  
S-6100 South Park Avenue  
Hamburg, N.Y. 14075

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

Also Present:	George Danyluk	Town Clerk
	Richard Boehm	Deputy Town Attorney
	James Spute	Director of Finance
	Gerard Kapsiak	Town Engineer
	Drew Reilly	Planning Consultant
	Joseph Coggins	Asst. Police Chief
	Robert Mueller	Sr. Public Safety Dispatcher
	Robert Hutchison	Town Assessor
	Kurt Allen	Supervising Building Inspector
	Robert Mars	Receiver of Taxes
	Martin Denecke	Ass. Director of Recreation

The Pledge of Allegiance was recited.

Information on Fire Exits was provided.

7:00 p.m. Public Hearing for an amendment to said zoning code for 45.88 acres located at the end of Commerce Place west of Camp Road. The property is to be rezoned from R-A (Residential Agricultural District) to C-1 (Local Retail Business District).

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

**PLEASE TAKE NOTICE** that there has been presented to the Town Board on November 10, 1997, pursuant to the Municipal Home Rule Law, a proposed local law to be known as proposed local law #11, 1997; said local law provides for the amendment of Local Law #10, 1986, chapter 280-Zoning and provides substantially as follows:

For the adoption of an amendment to said Zoning Code for 45.88 acres located at the end of Commerce Place west of Camp Road. The property is to be rezoned from R-A (Residential Agricultural District) to C-1 (Local Retail Business District).

## LEGAL DESCRIPTION

**ALL THAT TRACT OR PARCEL OF LAND** located in the Town of Hamburg, County of Erie and State of New York. Being part of Lots 12, 13, and 20, Township 9, Range 8 of the Holland Land Company's Survey, bounded and described as follows:

**BEGINNING** at the northwest corner of subplot 'H' as shown on a map of Commerce Park Subdivision filed in the Erie County Clerk's office under cover number 2426, said point also being the northwesterly corner of said subdivision; thence S-89°-44'-28"-W, along the northerly line of lands conveyed to M.J. Peterson Corp. By deed recorded in the Erie County Clerk's Office in Liber of Deeds 10886 at Page 9626, a distance of 769.75 feet record, 772.49 feet measured to the westerly line of lot 13; thence S-00°-23'-43"-E along the west line of Lot 13 and the westerly line of the aforementioned Liber 10886 of Deeds at Page 9626, a distance of 564.30 feet deed, 564.25 feet measured to the southwesterly corner of Lot 13, said point being also the northeasterly corner of Lot 20; thence S-89°-29'-25"-W along the northerly line of Lot 20, a distance of 466.50 feet to a line established by a boundary line agreement recorded in the Erie County Clerk's Office in Liber 6285 of Deeds at Page 207; thence S-09°-39'-53"-W along said boundary line, a distance of 1686.25 feet deed, 1673.11 feet measured, to the northwesterly line of lands appropriated by New York State Department of Public Works for the New York State Thruway, Erie Section, County of Erie, Subdivision E-7-A, Map No. 546, Parcel 556; thence N-56°-01'-54"-E, along the northwesterly line of said appropriated lands and along the northwesterly line of lands appropriated by New York State for Thruway purposes, Map 548, Parcel 558, by deed recorded in the Erie County Clerk's Office in Liber of Deeds 5908 at Page 1, a total distance of 1027.71 feet to the southeasterly corner of lands appropriated by New York State for Thruway purposes Map 550, Parcel 561, by deed recorded in the Erie County Clerk's Office in Liber 5950 at Page 262; thence along the bounds of said appropriated lands the following three courses and distances; (1) S-87°-02'-39"-W, a distance of 112.80 feet; (2) N-00°-24'-21"-E, a distance of 49.15 feet, (3) N- 87°-02'-39"-E, a distance of 198.03 feet to the northwesterly line of the aforementioned lands appropriated by Liber 5908 of Deeds, at Page 1; thence N-59°-06'-11"-E, along the northwesterly line of said appropriated lands, a distance of 842.78 feet to the southwesterly corner of Sublot 'E' as shown on the aforementioned Map Cover 2426, said point also being the southwesterly corner of said subdivision; thence along the westerly bounds of Commerce Park Subdivision, Map Cover 2426, the following 3 courses and distances: (1) N-29°-01'-37"-W, a distance of 655.22 feet; (2) N-61°-04'-21"-E, a distance of 506.43 feet; (3) N-38°-15'-32"-W, a distance of 436.61 feet to the point of beginning, containing 45.88 acres of land more or less.

Subject to a 20' wide storm drainage easement in Liber 8866, Page 464.

Also,

Subject to a 20' wide sanitary sewer easement recorded in Liber 8866, Page 464.

Also,

Subject to any and all easements of record.

**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 December 8, 1997 at 7:00 p.m. (Local time), at which time all interested persons may be heard.

Dated: November 10, 1997

GEORGE DANYLUK  
Town Clerk,  
Town of Hamburg

### **Correspondence**

Mr. Danyluk explains that there is one item of correspondence from the Planning Board with a favorable recommendation where they site 7 different reasons for this.

At this time Mr. Reilly gives an overview of the property and its location. He explains that the applicant is asking for the standard C-1 zoning which allows for small businesses, retail businesses, eating and drinking establishments, Hotels and Motels, drive-in banks and some special use permits, such as nursery schools and day care. The Town is proposing to amend the zoning code to make a limit on the size of the buildings allowed.

Mr. Reilly explains that the Planning Board has been working diligently on this application, it was received back in May of last year. At this point they feel fairly comfortable with this rezoning and have recommended it to the Town Board. The Planning Board feels that the project is in conformance with the Master Plan, the open space/green space plan has identified 16 acres to be preserved for this, 150 foot buffer will be placed along the residential areas, individual site plan approvals will have to be submitted, there is an agreement between the Town and the applicant that a traffic study will be performed anytime for FH use that goes into this park and if anything is required the applicant will pay for that improvement.

Councilwoman Kesner questions how many residential properties back up to this land. Mr. Reilly shows a map outlining this area. He also points out the 150 foot buffer required and that this area is heavily wooded.

Councilman Cavalcoli points out that the 16 acres identified for green space is one of the most beautiful areas in the Town and the applicant recognizes this.

Steve Strnad asks if they have any idea what will be built there. Mr. Reilly responds that it is a commercial park with 12 lots to be built on. Asks if the people in Country Woods are aware of this. Mr. Reilly responds that anyone within 500 feet was notified. Councilman Cavalcoli asks if anyone from Country Woods is present.

A gentleman from 4011 Towers Place responds that he is looking to build in Country Woods and the residents there are aware of this. He wonders why they are entertaining C-2 zoning as an option, which allows for gas stations etc. Councilman Cavalcoli explains that in the new code, concerning C-2, all those uses have been taken out. He explains that in this new C-2 code, that will be adopted in mid January, it will only allow commercial establishments of the type that are in C-1 but the size could be larger. Mr. Reilly explains that they are placing the size restriction on C-1 in the new code. The December 22nd public hearing will explain all of this.

Alfred Harrington, owns Cooperidge nurseries, and is concerned about commercial being put in there, they like the green space.

#### **I.**

**RESOLVED**, that the Town Board table the Public Hearing for a minimum of two weeks.

Moved: Hoak  
Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
Noes: None  
Carried

Seconded: Cavalcoli

Councilman Cavalcoli thanks Mr. Reilly and the Planning Board for the work and effort spent on this project.

#### **II.**

**RESOLVED**, that the Town Board approve the minutes from the following meetings:

November 24, 1997	Town Board Meeting
December 1, 1997	Work Session

Moved: Cavalcoli  
Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
Noes: None  
Carried

Seconded: Quatroche

#### **III.**

**RESOLVED**, that the Town Board grant permission for Barbara Pietrocarlo, of the Assessing Department, to carry over five (5) vacation days from 1997 to 1998.

Moved: Kesner  
Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
Noes: None  
Carried

Seconded: Hochul

**IV.**

**RESOLVED**, that the Town Board authorize the Supervisor to sign a service agreement renewal with Simplex for all of the Simplex Time Clocks in the Town. The amount of the contract is \$1,213.00 (increase from 1997 of \$59.25). Funds are available in the 1998 budget in account A3020.423. Contract renew date 2-1-98.

**BE IT FURTHER RESOLVED**, that the Town Board authorize the Supervisor to sign a service agreement renewal with Simplex for the Fire Alarm Panel used to receive alarms from various establishments in the Town of Hamburg. The amount of the contract is \$940.00 (a decrease of \$6.00 from the 1997 contract). Funds are available in the 1998 budget in account A3020.423. Agreement renewal date is 2-1-98.

Moved: Hoak

Seconded: Hochul

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

Noes: None

Carried

**V.**

**BE IT RESOLVED**, that the Town Board authorize Dave Miller to attend the National Playground Safety Institute sponsored by the New York State Recreation and Park Society at Saratoga Springs, N.Y. on December 3rd and 4th, 1997. Upon successful completion of the Institute, Dave Miller will be a certified Playground Safety Inspector. Request of the B & G truck #60 for transportation. The estimated cost is \$675.00 and funds are available in A7140.440.

Moved: Hoak

Seconded: Quatroche

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

Noes: None

Carried

**VI.**

**BE IT RESOLVED**, that the Town Engineer's report on the acceptance of the STEVE'S AUTO SANITARY SEWER EXTENSION work done under Public Improvement Permit No. 649 be received and accepted, and that the Supervisor is authorized to sign the report.

**BE IT FURTHER RESOLVED**, that this resolution becomes effective on the day the report is signed by the Supervisor.

Moved: Cavalcoli

Seconded: Kesner

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

Noes: None

Carried

Steve Strnad questions why the cost is not itemized. Supervisor Hoak responds that he will get this information from Mr. Connolly and report back at the next Board Meeting.

**VII.**

**WHEREAS**, in it's constant effort to upgrade it's services to the public by obtaining current equipment, and

**WHEREAS**, To achieve these goals certain resources are required,

**THEREFORE BE IT RESOLVED**, that the Police Department be permitted to purchase a Laptop computer system for the Detective Bureau which will enable Officers to accomplish the following functions:

- A) Construct composite illustrations at the scene of a crime.
- B) Construct composite illustrations at a victims or witnesses residence.
- C) Computerize Police evidence through the use of a digital camera.
- D) Securing statements, depositions, etc., in the field for the convenience of the public.

1-	Laptop Compaq Presario 1600	\$2,170.00
1-	Printer Cannon BJC-80	\$ 279.00
1-	Photo Printer HP DeskJet 722C	\$ 329.99
1-	Label Printer Seiko 120	\$ 187.00
1-	Digital Camera Sony Mavica W/10X zoom	\$ 679.00
1-	Network card Ethernet Novell Network 3.0	\$ 101.50
1-	6' IEEE 1284 Printer CBL DB25-Cent 36M	\$ 14.99
	Protective cases for all	<u>\$ 130.00</u>
	<b>TOTAL</b>	<b>\$3,891.48</b>

Computer equipment has been approved by the Computer committee. Money is funded in Drug Forfeiture account B3120.494.

Moved: Hoak Seconded: Hochul  
 Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
 Noes: None  
 Carried

**VIII.**

**RESOLVED**, that the Town Board grant permission for Theresa A. Dubey of the Planning Dept. To carry over 9 days of unused vacation into 1998.

Moved: Cavalcoli Seconded: Hochul  
 Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
 Noes: None  
 Carried

**IX.**

**RESOLVED**, that the Town Board approve the transfer of appropriations, for the Buildings and Grounds Department, within the 1997 Budget as follows:

From: Library - Contractual Serv.	A7410.423	\$2,844.00
To: Playground Rec.- Personal Services	A7140.100	\$2,844.00

Buildings and Grounds personnel did extensive repairs to Library in 1997.

Moved: Quatroche Seconded: Kesner  
 Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
 Noes: None  
 Carried

**X.**

**WHEREAS**, Greenacres, Inc. of Boston State Road, Hamburg, New York, was granted sewer permit #97-01378 through the Town Building Inspection Department, and

**WHEREAS**, Greenacres, Inc. paid a fee of \$800.00 for said permit based on the proposed installation of a 1-1/2" diameter domestic water service in accordance with the Town's adopted fee schedule, and

**WHEREAS**, Greenacres, Inc. is presently reducing the size of the domestic water service to 3/4" diameter. The sewer permit fee is \$200.00 for a commercial facility served by a 3/4" diameter domestic water service, and

**WHEREAS**, Greenacres, Inc. has requested a refund in writing for the fee balance based on the actual downsizing of the water service.

**NOW, THEREFORE BE IT RESOLVED**, that the Town Board authorize a refund in the amount of \$600.00 to Greenacres, Inc. predicated on the amended permit fee calculation.

Moved: Hochul  
Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
              Noes: None  
              Carried

Steve Strnad questions why the reduction in the water service line. Kurt Allen responds that after further analysis they found that they didn't need such a large water service.

**XI.**

**RESOLVED**, that the Town Board authorize the Finance Department to increase the Hydrant Rental Account No. SH 3440.438 by \$16,885.00 from the Hydrant Appropriated Fund Balance Account No. SH 3440.599, to cover Erie County Water Authority vouchers for November and December of 1997. This is necessary due to 20% increase which was imposed by the Water Authority on Hydrant rentals for 1997, which the Town was not notified of until after the 1997 budget was adopted.

Moved: Cavalcoli  
Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
              Noes: None  
              Carried

Mr. Garcia questions why the increase of 20%. Mr. Kapsiak explains that this is to reflect the actual cost to maintain the hydrants within the system. The water authority contracts out the cost for hydrant maintenance and this is in line with the bids they received.

**XI.**

**RESOLVED**, that the Town Board approve the request of Marcia Seiflein of the Highway Department, to carry over 3 unused vacation days from 1997 to 1998.

Moved: Quatroche  
Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
              Noes: None  
              Carried

**XII.**

**RESOLVED**, that the Town Board approve the refund of \$402.00 for Building Permit No. 97-01183 and 97-01182, for Auto Zone, Camp Road, size of signs were changed. Make refund payable to:

Paul Anthony Design, Inc.  
4978 Broadway  
Depew, New York 14043

Moved: Hochul  
Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
Noes: None  
Carried

Seconded: Quatroche

**XIV.**

**RESOLVED**, that the Town Board approve the membership of the following into the Lake Shore Volunteer Fire Co., Inc.:

Rhonda Pilger  
5079 Morgan Pkwy.  
Hamburg, N.Y. 14075

Moved: Kesner  
Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
Noes: None  
Carried

Seconded: Cavalcoli

**XV.**

**RESOLVED**, that the Town Board approve the use of two voting machines by the Southtowns Walleye Association of W.N.Y. on January 15, 1997 from noon to 9 p.m. at the Newton Abbott Firehall, 3456 Abbott Road, for their annual election of Officers.

Moved: Hochul  
Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
Noes: None  
Carried

Seconded: Quatroche

**XVI.**

**RESOLVED**, that the Town Board approve the purchase of one intensive use Public Safety Dispatch chair. This chair is needed to replace chairs currently in use, that are over three years old, and have received several repairs over the past few years. The chair would be a high back intensive use chair able to support a load of up to 400 lbs., 24 hours a day. All controls would be accessible to the dispatcher. The chair is warranted for at least 5 years. Cost is estimated at approximately \$800. Funding would be through account A3020.203. Funds are available because an item budgeted by my predecessor was not feasible to be purchased. There is money budgeted in the 1998 budget to purchase a second chair.

Moved: Hoak  
Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
Noes: None  
Carried

Seconded: Hochul

**XVII.**

**RESOLVED**, that the Town Board approve the request of Kathy Scharlock of the Highway Department to carry over 4 days of unused vacation time from 1997 to 1998.

Moved: Quatroche  
Roll Call: Ayes: Hoak, Cavalcoli, Hochul, Kesner, Quatroche  
Noes: None  
Carried

Seconded: Kesner



## **Correspondence**

Letter #184 - From Joe Schichtel who is donating a tree in memory of Joseph Benzinger, Jr. - this has been forwarded to the Recreation Department and they are looking for a place on the Golf Course.

Letter # 187 - Supervisor Hoak wants to commend Bob Mueller for receiving this and put a copy in his personnel file.

### Late Correspondence

From St. Francis High School, which corresponds with the last resolution, asking for money back because they are discontinuing Bingo.

From Marianne Tomani requesting that the Board appear at a meeting of the Woodlawn Taxpayers Association to be held December 11, 1997, regarding the assessment challenge that would have direct impact on the residents of Woodlawn. Supervisor Hoak states that they are in finalization of negotiations that should be concluded next week - the newspapers and media will be notified. They will not be able to discuss this publicly until it's conclusion.

Letter # 183 - Councilwoman Hochul comments that the Police have done an outstanding job on the Lake Shore.

## **Reports from Board Members and Department Heads**

Gerard Kapsiak, Town Engineer, reports that this Friday he and Tom from Malcolm Pirnie Engineers visited the State Department of Environmental Conservation in Albany to discuss allowable uses for the remaining funds of the \$850,000 bond and grant for the work within the Osborne Sagamore Sewer District area. There is \$450,000 left in that grant. They met with two Deputy Commissioners and they understood that the Town is trying to keep Woodlawn Beach open for swimming as much as possible and they indicated they would discuss the proposed uses of the grant funds with the appropriate people and send a letter to the Town which will give authorization to proceed with either upgrading the Electric Ave. Pump Station or putting a gravity sewer connection into the Blasdell Sewer Plant. They would like to see the work done by June 1998 and Malcolm Pirnie is currently preparing a report on the flow monitoring study and they will be submitting this to the Town by the end of the week and we will in turn submit it to the Village of Blasdell for their review. He wants to thank Assemblyman Dick Smith and Senator Volker for their assistance in bringing this to this point.

Steve Strnad questions if this means the Board has made up their minds to go to Blasdell verses the other option.

Mr. Kapsiak responds that this only pertains to the Osborne Sagamore Sewer District which are tributary to the Electric Ave. Pump Station and are currently going to Blasdell.

Councilman Cavalcoli states that they are still reaching final decisions on the Rite Aid project, there are still some unanswered questions that the Board Members have that he hopes will be resolved this week. There will be a Public Hearing on December 22, 1997 to discuss the new Zoning Codes. The Ordinance Committee met with the Chamber of Commerce who made some good suggestions and modifications which were adopted and hopefully by mid January they will be ready to adopt the new Codes.

Councilwoman Hochul reports that at the Traffic Safety Board Meeting on Thursday there was discussion about the State DOT's plans to close the Route 20 Bridge over 18 mile Creek for reconstruction. They plan on closing the Bridge from June 1998 for 6 months and again in 1999. Her concern is re-routing the traffic along Route 5. She talked to the State DOT and asked if they could close one lane at a time. They explained that it is an arched Bridge which would create problems if they closed half because there would not be sufficient weight to hold the deck. They sent a letter requesting this and also to find creative ways to re-route the traffic away from the residential areas.

Supervisor Hoak recognizes Dave Miller from the Buildings and Grounds Department as the employee of the month for December.

George Lee announces that Friday they will be lighting the tree in Blasdell, Santa will be there, refreshments at the school and the Blasdell Elementary Chorus will be singing.

## **Business from the Floor**

Joe Killian, Coalition of Lakeshore Taxpayers, questions if Rite Aid is going to be re-zoned and are they moving ahead with this project. Councilman Cavalcoli states no, the Board discussed it last week and the representatives from Rite Aid have agreed to wait this additional week for the answer, he would expect that by a week from today they will make a determination whether this will be sent to the Planning Board or not. The representatives who have been before the Board have agreed to make all kinds of architectural changes so that if it were to come in, it would fit into the neighborhood. Drew Reilly explains that what the Town Board is deciding under the Master Plan, is whether to even entertain the re-zoning request, they are not deciding whether they want this or not. Originally when they came in, the original proposal was their standard proposal which the Town said was wholly not in conformance with the Master Plan and rejected it. If they make enough changes so that the Town will now consider it they still have to go through the entire process of going through the Planning Board with a Public Hearing, etc. Councilwoman Hochul states that she met with them and they showed her the size (they are proposing 10,000 sq. Ft.) . Joe states that he is concerned with a continual rezoning happening along this area. Councilman Quatroche comments that what they are concerned with is will it improve the area. Supervisor Hoak states that there have been more petitions submitted for this than any project ever.

Richard Kwieciak, 5172 Lake Shore Rd., he was asked to come down and thank the Board and the Police for their good work controlling the traffic. They are concerned with the development and preservation of Route 5.

Steve Strnad comments that at the work session there was no itemized expense for Councilman Cavalcoli and Mr. Kapsiak to go to Albany. Councilman Cavalcoli comments that there was no expense to the Town. He then asks if they will not be going to the Woodlawn meeting. Supervisor Hoak responds that at this time an agreement has not been made and they cannot discuss it. Steve Strnad asks if anyone audits the report from the Clerk's Office. Mr. Spute comments that the Finance Department looks at it monthly. He then questions what will be discussed at the next Work Session concerning Rural Metro. Councilwoman Kesner comments that presentations will be given from two committees, one being Rural Metro and the other being a Town Squad. They will put their findings before the Chiefs, their Attorneys and the general public.

## **XX.**

**RESOLVED**, that the Town Board adjourn to Executive Session at 8:25 p.m. to discuss a legal matter.

Moved: Hoak

Seconded: Cavalcoli

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

Noes: None

Carried

---

George Danyluk, Town Clerk