

A regular Town Board Meeting of the Town of Hamburg, County of Erie and State of New York was held at the Town Hall, S-6100 South Park Avenue, Hamburg, New York on the 12th day of December 2010.

**TOWN BOARD MEMBERS**

**PRESENT:**

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

**ALSO PRESENT:** Catherine A. Rybczynski, Town Clerk; Mary Dosch, Sr. Account Clerk; Drew Reilly, Planning Consultant; Gerard Kapsiak Town Engineer; Robert Hutchison, Town Assessor; Kenneth Farrell, Town Attorney; Brian Doyle, Deputy Town Attorney; Chief of Police Mike Williams; Marty Denecke, Director of Recreation; Tom Best Highway Superintendent; Kurt Allen, Supervising Code Enforcement Officer; Christopher Hull, Director of Community Development; Tom Taylor, Senior Public Safety Dispatcher; Jerry Giglio, Traffic Safety Consultant; Peter Reszka, Planning Board Chairman, Glenn Zawierucha, Emergency Management Coordinator

The Pledge of Allegiance was recited.

Information on Fire Exits was provided.

**1.**

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

<b>ADOPTED</b>	Ayes 4	Walters, Smardz, Gorman, Ziegler
	Noes 1	Collins

**RESOLVED,** that the Town Board move into Executive Session at 7:02 p.m. on a personnel matter.

**2.**

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

<b>ADOPTED</b>	Ayes 5	Walters, Smardz, Collins, Gorman, Ziegler
	Noes 0	

**RESOLVED,** that the Town Board adjourn Executive Session at 7:22 p.m.

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

PLEASE TAKE NOTICE that there has been presented to the Town Board on November 15, 2010, pursuant to the Municipal Home Rule Law, a proposed local law, to be known as proposed local law #14, 2010; said local law provides for amendments to the Code of the Town of Hamburg, which are in accordance with recommendations of the Town of Hamburg Code Review Committee. The amendments can be described as follows:

Amendment #1 Chapter 280 – Zoning  
Article XIV – C-2 General Commercial District  
Article XVIII – M-1 Industrial – Research & Development District  
Article XIX – M-2 Light Industrial District  
Article XLVI – Special Use Permits

Amendments and additions to the above Articles

Purpose of amendments:

To provide for public mini-storage facilities in prescribed areas of the Town

Amendment #2 Chapter 190 – Garage/Yard Sales

Creation of a new chapter

Purpose of amendments:

To establish new local law provisions to regulate residential garage/yard sales

Amendment #3 Chapter 280 – Zoning  
Article XVII – Waterfront Commercial District

Amendment to Section 280-110 (Permitted Uses)

Purpose of amendment:

To address existing residential structures in the WC District

Amendment #4 Chapter 280 – Zoning  
Article XLIX – Definitions and Word Usage  
Amendment to Section 280-342, new definition

Purpose of amendment:

To provide a definition of “patio home”

Amendment #5 Chapter 280 – Zoning  
Article XXXII – Off-Street Parking Requirements  
Amendment to Section 280-216  
Article XLIX – Definitions and Word Usage  
Amendment to Section 280-16, new paragraph E, and change existing E to F  
Amendment to Section 280-342, addition of the definition of “studio apartment”

Purpose of amendments:

To address the definition of and parking requirements for studio apartments

A detailed copy of the proposed amendments will be available, for public review, during regular business hours at the following locations:

HAMBURG TOWN HALL -2 Locations  
Town Clerk’s Office/upper level & Planning Department/lower level  
6100 South Park Avenue  
Hamburg, New York 14075

And may also be found at the Town’s website: [www.townofhamburgny.com](http://www.townofhamburgny.com)  
Click on "**Legal Notices & Bid**"

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 13, 2010 at 7:00 p.m. (local time), at which time all interested persons may be heard.

Dated: November 15, 2010

Catherine Rybczynski  
Town Clerk  
Town of Hamburg

Catherine Rybczynski comments that two pieces of correspondence were received. Both are in opposition to Amendment #2 – Chapter 190 – Garage/Yard Sales.

Drew Reilly, Planning Consultant, comments concerning amendments 1, 3, 4 & 5 to the Hamburg Town Code as recommended by the Code Review Committee.

Kurt Allen comments on Amendment #2 concerning garage sales which was drafted in response to complaints on perpetual garage sales within a residential setting; no permits will be required.

The following spoke against amendment #2:

Oliver Barrett, Elizabeth O'Donnell, Don Weiss

The following spoke concerning amendment #2:

Ferd Garcia, Drew Reilly

The following spoke concerning amendment #4:

Mike Maher, Drew Reilly

The following spoke concerning signs:

Joe Kilian, Don Weiss

**3.**

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

ADOPTED	Ayes	5	Walters, Smardz, Collins, Gorman, Ziegler
	Noes	0	

**RESOLVED,** that the Town Board close the public hearing and table amendment #2.

**4.**

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

ADOPTED	Ayes	5	Walters, Smardz, Collins, Gorman, Ziegler
	Noes	0	

**RESOLVED,** that the Town Board approve a negative declaration for the purposes of SEQR with regards to local law #14, 2010.

5.

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

ADOPTED	Ayes	5	Walters, Smardz, Collins, Gorman, Ziegler
	Noes	0	

**RESOLVED**, that the Town Board adopt amendment #1, amendment #3, amendment #4 and amendment #5 from local law #14, 2010 as listed in the public notice.

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

LEGAL NOTICE  
TOWN OF HAMBURG

Rezoning of Erie County Agricultural Society and Buffalo Trotting Association Property

PLEASE TAKE NOTICE that there has been presented to the Town Board on November 15, 2010 pursuant to the Municipal Home Rule Law, a proposed local law to be known as proposed local law #15, 2010; said local law provides for the amendment of Local Law #10, 1986, Chapter 280 entitled Zoning, Section 280-214.2, "Fairgrounds District", and provides substantially as follows:

For the adoption of an amendment to said Zoning Code for property located north of Clark Street, south of Quinby Drive, east of South Park Avenue, and west of McKinley Parkway. The property is to be rezoned from M-1 (Industrial Park-Research and Development District); C-2 (General Commercial District) and R-3 (Multifamily District) to FG (Fairgrounds District). The property can be identified as S.B.L. Numbers 183.05-2-15, 183.10-1-1, 183.10-1-2 and 183.10-1-8. Further information on this rezoning can be found in the Town Clerk's office or the Building Department at Town Hall.

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 13, 2010 at 7:00 p.m. (local time), at which time all interested persons may be heard.

Dated: November 15, 2010

Catherine Rybczynski  
Town Clerk  
Town of Hamburg

The following spoke concerning proposed local law #15:

Drew Reilly, Robert Hutchison, Councilman Collins, Oliver Barrett, Supervisor Walters, Ken Farrell, Andy Kapinski, Raymond Brown, Councilman Collins

**6.**

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

ADOPTED                    Ayes   5            Walters, Smardz, Collins, Gorman, Ziegler  
                                      Noes   0

**RESOLVED,** that the Town Board close the public hearing.

**7.**

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

ADOPTED                    Ayes   5            Walters, Smardz, Collins, Gorman, Ziegler  
                                      Noes   0

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

- |            |                    |
|------------|--------------------|
| 11/01/2010 | Budget Hearing     |
| 11/08/2010 | Town Board meeting |
| 11/15/2010 | Work Session       |
| 11/19/2010 | Special Meeting    |

**8.**

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

ADOPTED                    Ayes   5            Walters, Smardz, Collins, Gorman, Ziegler  
                                      Noes   0

**RESOLVED,** that the Town Board authorize the Recreation Department to issue alcohol waivers for the following January 2011 Taylor Road rentals:

- |            |            |            |            |
|------------|------------|------------|------------|
| 01/1/2011  | 01/02/2011 | 01/08/2011 | 01/09/2011 |
| 01/15/2011 | 01/22/2011 | 01/23/2011 |            |

**9.**

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

ADOPTED                   Ayes 5           Walters, Smardz, Collins, Gorman, Ziegler  
                                  Noes 0

**WHEREAS**, David Bellissimo, Member of the Town of Hamburg Planning Board, has requested approval of training credits earned at a four (4) hour 2010 training seminar, entitled "Green Infrastructure/Low-Impact Development Workshop", sponsored by the WNY Stormwater Coalition, in order to comply with mandatory training requirements of Planning and Zoning Board of Appeals Members, and

**WHEREAS**, Mr. Bellissimo previously completed the required 2010 four hour training,

**NOW THEREFORE BE IT RESOLVED** that the Town Board approve Mr. Bellissimo's request for four (4) hours of training credits from the seminar he attended on October 28, 2010, and

**BE IT FURTHER RESOLVED** that the Town Board approves the carry over of the aforementioned four (4) credit hours to apply to the 2011 year in satisfaction of the requirements of mandatory training as set forth in Local Law #1, 2009.

**10.**

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

ADOPTED                   Ayes 5           Walters, Smardz, Collins, Gorman, Ziegler  
                                  Noes 0

**RESOLVED**, that the Town Board authorize Jeffrey Allaire and Joshua Hulme, students at Hilbert College, to do Internship in the Police Department, at no cost to the Town.

**11.**

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

ADOPTED                   Ayes 5           Walters, Smardz, Collins, Gorman, Ziegler  
                                  Noes 0

**RESOLVED**, the Town Board authorize the Police Department to purchase Two-Way Digital Radios and UHF Digital Repeater System from F.M.Communications Inc., 1914 Colvin Blvd, Tonawanda, New York for a cost of \$87,528.95, State Contract price. State Contract #PT62491, with a \$6,120.00 rebate.

Money is encumbered from 2010 and also available in 2011 accounts B3120.494 and A1650.204.

**12.**

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

ADOPTED                   Ayes 5       Walters, Smardz, Collins, Gorman, Ziegler  
                                  Noes 0

**RESOLVED**, the Town Board authorize the Police Department to advertise for Seven (7), 2011 Police Ford Interceptors.

Money is available in 2011 budget, account B3120.202.

The following spoke concerning resolution #12:

Joe Killian, Chief Williams

**13.**

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

ADOPTED                   Ayes 5       Walters, Smardz, Collins, Gorman, Ziegler  
                                  Noes 0

**WHEREAS**, the Lake Shore Volunteer Fire Company and the Town of Hamburg will be hosting the Southwestern Association of Volunteer Firemen Convention of 2011.

**WHEREAS**, the Lake Shore Volunteer Fire Company and the surrounding fire companies in the Town of Hamburg will be ambassadors and representatives of the Town of Hamburg at the Southwestern Association of Volunteer Firemen General Convention to be held August 3 to August 6, 2011. That in recognition of their service to our Town of Hamburg and the State of New York, the Hamburg Town Board authorizes the Town of Hamburg emblem to be used on all badges to be issued for attendance of the 2011 Southwestern Association of Volunteer Firemen Convention.

**THEREFORE BE IT RESOLVED**, That the Lake Shore Volunteer Fire Company and the Southwestern Association of Volunteer Firemen are authorized to use the emblem of the Town of Hamburg in any and all badges printed and provided to the volunteer firemen and guests who will be attending the Southwestern Association Volunteer Firemen Convention of 2011 August 3 to August 6, 2011.

**14.**

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

ADOPTED                   Ayes 5           Walters, Smardz, Collins, Gorman, Ziegler  
                                  Noes 0

**RESOLVED**, that the Town Board approve the recommendation of the Chief of Police to promote Police Officer TIMOTHY CRAWFORD to the vacant position of DETECTIVE-TEMPORARY, effective January 2, 2011. Salary is \$35.20 per hour, funds available in B3120.100.

**15.**

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

ADOPTED                   Ayes 5           Walters, Smardz, Collins, Gorman, Ziegler  
                                  Noes 0

**BE IT RESOLVED**, that the Town Engineer’s report on the completion and acceptance of the OAKWOOD GROVE SUBDIVISION work performed under Public Improvement Permit Nos. 955, and 956 be received and accepted, and that the Supervisor is authorized to sign the report.

**16.**

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

ADOPTED                   Ayes 5           Walters, Smardz, Collins, Gorman, Ziegler  
                                  Noes 0

**WHEREAS**, the Town of Hamburg received a request from EduKids, Inc., to rezone three vacant parcels on Cloverbank Road just east of lakeshore Road from R-2 to NC (Neighborhood Commercial), and

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

**NOW, BE IT RESOLVED**, that the Hamburg Town Board hereby refers this rezoning request to the Planning Board for its review and recommendation.

**NOW, THEREFORE BE IT RESOLVED**, that in accordance with the State Environmental Quality Review Act (SEQRA), the Town Board would like to seek Lead Agency designation for this application and therefore authorizes the Planning Department to perform the appropriate mailings and notifications.

**BE IT FINALLY RESOLVED**, the Town Board authorizes the Planning Department to complete the County referral.

The following spoke concerning resolution #16:

Don Weiss

**17.**

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

ADOPTED	Ayes	5	Walters, Smardz, Collins, Gorman, Ziegler
	Noes	0	

**RESOLVED**, that the Town Board approve the request for Larry Bednarz, Head Mechanic for the Highway Department to carry over two (2) weeks vacation to 2011. Due to work load and winter conditions Larry is unable to use his vacation time.

The following spoke concerning resolution #12:

Councilman Smardz

**18.**

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

ADOPTED	Ayes	5	Walters, Smardz, Collins, Gorman, Ziegler
	Noes	0	

**WHEREAS**, Nussbaumer & Clarke, Inc. was previously retained by the Town of Hamburg to prepare concept plan drawings and related information for a proposed gateway entrance project along Lake Shore Road (NYS Route 5) in the area of Big Tree Road; and

**WHEREAS**, the concept plan was submitted to the Town and reviewed by the Town Board, Shoreline Revitalization Committee, New York State Department of Transportation, and affected property owners, following which it was determined to proceed with the design of the proposed project; and

**WHEREAS**, Nussbaumer & Clarke has submitted a proposal for providing design engineering services for this project, which has been reviewed by the Town Engineer and determined to be reasonable and acceptable for the services to be provided, at a total lump sum fee of \$37,250.

**THEREFORE BE IT RESOLVED**, that the current contract with Nussbaumer & Clarke is amended to include these additional services, and that the Supervisor is authorized to sign their November 29, 2010 proposal letter/agreement in this regard. Funding for these services is to be from Federal transportation funding (80%) and State Marchiselli program funding (15%) that the Town has received for this project, with the remaining 5% local share to be paid through the Town Trust and Agency account.

**19.**

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

ADOPTED                    Ayes    5            Walters, Smardz, Collins, Gorman, Ziegler  
                                      Noes    0

**BE IT RESOLVED** that a public hearing be scheduled to consider an amendment to Local Law #12, 1968, "Shopping Centers and Other Areas of Assembly." This amendment would provide for the addition of the following new location:

Burger King  
4175 McKinley Parkway  
Blasdell, NY 14219

The hearing is scheduled for January 24, 2011 at 7:00 p.m.

**20.**

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

ADOPTED                    Ayes    5            Walters, Smardz, Collins, Gorman, Ziegler  
                                      Noes    0

**WHEREAS**, the Town of Hamburg Code Review Committee has been researching issues related to the Town of Hamburg's need to establish a Home Occupations & Businesses Law, and,

**WHEREAS**, the Code Review Committee has drafted a local Home Occupations & Businesses Law, and,

**WHEREAS**, the Code Review Committee has recommended that the Town Board schedule a Public Hearing to receive input on this proposed law.

**NOW, THEREFORE BE IT RESOLVED**, that the Hamburg Town Board sets a Public Hearing on the proposed Home Occupations & Businesses Law for January 24, 2011 at 7:00 PM and,

**BE IT FURTHER RESOLVED**, that in accordance with the State Environmental Quality Review Act (SEQRA), the Town Board would like to seek Lead Agency designation for this legislation and therefore authorizes the Planning Department to perform the appropriate mailings and notifications.

**BE IT FINALLY RESOLVED**, the Town Board authorizes the Planning Department to complete the County referral.

**21.**

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

ADOPTED                   Ayes   5           Walters, Smardz, Collins, Gorman, Ziegler  
                                   Noes   0

**WHEREAS**, bids were opened for One (1) New and Unused, Chassis Mounted Vac-All/Street Sweeper for the Town of Hamburg Highway Department on December 3, 2010; and

**WHEREAS**, two (2) bids were received as follows:

<b>Bidder</b>	<b>Bid Price</b>
1. Cyncon Equipment Inc.	\$ 222,795.00
2. Joe Johnson Equipment Inc.	\$ 194,202.40

**WHEREAS**, after reviewing both bids that were submitted, it was determined that Joe Johnson Equipment Inc. did not meet all the bid specs,

**THEREFORE BE IT RESOLVED**, that the Town Board authorizes the Highway Superintendent, Thomas Best, to accept the bid of Cyncon Equipment Inc. in the amount of \$222,795.00, since they are the bidder to meet all the specifications. Funds are available in account H26.5130.0201.

The following spoke concerning resolution #21:

Councilman Gorman, Tom Best, Ken Farrell, Don Weiss, Ferd Garcia

**22.**

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

ADOPTED	Ayes 5	Walters, Smardz, Collins, Gorman, Ziegler
	Noes 0	

At a regular meeting of the Town Board of the Town of Hamburg, in the County of Erie, New York, held at the Town Hall, 6100 South Park Avenue, Hamburg, New York, on the 13th day of December, 2010.

**PRESENT:**

Hon. Steven J. Walters,	Supervisor
Kevin Smardz,	Councilperson
Joseph A. Collins,	Councilperson
Jonathan G. Gorman,	Councilperson
Amy J. Ziegler,	Councilperson

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In the Matter

of the

Transfer of the Water Supply and Distribution System  
of the Town of Hamburg, in the County of Erie, New York  
to the Erie County Water Authority

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Offered by: Supervisor Walters  
Seconded by: Councilman Gorman

RESOLUTION OF THE TOWN OF HAMBURG, NEW YORK,  
ADOPTED DECEMBER 13, 2010, APPROVING THE TRANSFER  
OF THE WATER SUPPLY AND DISTRIBUTION SYSTEM OF  
THE TOWN TO THE ERIE COUNTY WATER AUTHORITY,  
AUTHORIZING THE SUPERVISOR TO EXECUTE A DIRECT  
SERVICE AGREEMENT WITH THE ERIE COUNTY WATER  
AUTHORITY IN CONNECTION THEREWITH, AND PROVIDING  
THAT SUCH RESOLUTION SHALL BE SUBJECT TO A  
PERMISSIVE REFERENDUM

Recitals

WHEREAS, the Erie County Water Authority (the “Authority”), a New York public benefit corporation duly established and existing pursuant to Section 1054 of the Public Authorities Law and other applicable law, is authorized to acquire town water supply and distribution systems; and

WHEREAS, pursuant to subdivision 2 of Section 64 of the Town Law and other applicable law, the Town of Hamburg (the “Town”) is authorized to transfer all or a part of its water supply and distribution system to the Authority, and

WHEREAS, the Town and the Authority desire to enter into an agreement whereby the Town would convey its water supply and distribution system and the Authority would accept such supply and distribution system;

Now, therefore be it

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

Section 1. The Town of Hamburg is hereby authorized to transfer its water supply and distribution system to the Erie County Water Authority pursuant to the terms described in the Direct Service Agreement by and between the Town and the Authority, substantially in conformity with Exhibit A attached hereto and made a part hereof (the “Direct Service Agreement”).

Section 2. The Supervisor is hereby authorized to execute the Direct Service Agreement, pursuant to which the Town shall transfer and convey to the Authority the assets, equipment, inventory, water mains, hydrants, appurtenances and infrastructure of the water system in exchange for the direct services to be provided by the Authority.

Section 3. This resolution shall be subject to a permissive referendum, and the Town Clerk of said Town of Hamburg, shall within ten (10) days after the adoption of this resolution cause to be published, in full, in "*The Sun*" and "*Front Page*," two newspapers each having a general circulation in said Town, which newspapers are hereby designated as the official newspapers of the Town for such publication, and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

TOWN OF HAMBURG, NEW YORK

PLEASE TAKE NOTICE that on December 13, 2010, the Town Board of the Town of Hamburg, in the County of Erie, New York, adopted a resolution entitled:

“Resolution of the Town of Hamburg, New York, adopted December 13, 2010, approving the transfer of the water supply and distribution system of the Town to the Erie County Water Authority, authorizing the Supervisor to execute a Direct Service Agreement with the Erie County Water Authority in connection therewith, and providing that such resolution shall be subject to a permissive referendum,”

an abstract of such resolution concisely stating the purpose and effect thereof, being as follows:

FIRST: STATING that the Town of Hamburg is authorized to transfer its water supply and distribution system to the Erie County Water Authority pursuant to the terms described in the Direct Service Agreement to be executed by and between the Town and the Authority, substantially in conformity with Exhibit A attached to the resolution; and

SECOND: STATING that the Supervisor is authorized to execute the Direct Service Agreement by and between the Town and the Authority, substantially in conformity with Exhibit A attached to the resolution, pursuant to which the Town shall transfer and convey to the Authority the assets, equipment, inventory, water mains, hydrants, appurtenances and infrastructure of the water system in exchange for the direct service to be provided by the Authority; and

THIRD: DETERMINING and STATING that this resolution shall be subject to a permissive referendum.

BY ORDER OF THE TOWN BOARD

DATED: DECEMBER 13, 2010

CATHERINE A. RYBCZYNSKI  
TOWN CLERK

Section 4. This resolution shall not take effect until after the passage of the 30-day period during which a petition may be presented requesting that a referendum be held, or, after approval at referendum in the event that such a petition is received.

\* \* \* \*

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

Ayes:           Supervisor Walters  
                  Councilman Collins  
                  Councilman Gorman  
                  Councilman Smardz  
                  Councilwoman Ziegler

Noes:           0

The resolution was declared adopted.

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CERTIFICATE

I, Catherine A. 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 December 13, 2010, 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 of Hamburg this \_\_\_\_\_ day of December, 2010.

(SEAL)

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Catherine A. Rybczynski, Town Clerk  
Town of Hamburg

**23.**

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

ADOPTED	Ayes	3	Walters, Smardz, Ziegler
	Noes	2	Collins, Gorman

**WHEREAS**, the Town of Hamburg has historically made appointments of the Town Attorney, Deputy Town Attorney and Town Prosecutor which failed to comply with the requirements of Town Law §24, and

**WHEREAS**, a Town Attorney, whenever appointed, shall hold office until the first day of January next succeeding the first biennial Town election held after the time of his/her appointment pursuant to Town Law, Section 24, and

**WHEREAS**, the most recent appointment should have ended December 31, 2009, and the correct two (2) year term pursuant to the Town Law, and the schedule of biennial Town elections, should have commenced January 1, 2010 and ended December 31, 2011, and

**WHEREAS**, the Hamburg Town Board desires the term of appointment for the Town Attorney, Deputy Town Attorney, and Town Prosecutor to conform with Town Law §24, and the schedule of biennial Town elections,

**NOW THEREFORE BE IT RESOLVED**, that the Town Board hereby amends the aforementioned resolution dated January 5, 2009, and hereby appoints Kenneth J. Farrell, Esq., as Town Attorney, Brian Doyle, Esq., as Deputy Town Attorney, and Carl Morgan, Esq., as Town Prosecutor, until the first day of January next succeeding the first biennial Town election held after the time of this appointment, January 1, 2012.

The following spoke concerning resolution #23:

Councilman Gorman, Ken Farrell

**24.**

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

TABLED	Ayes	5	Walters, Smardz, Collins, Gorman, Ziegler
	Noes	0	

**WHEREAS**, a public hearing was held on June 28, 2010, for discussion and public comment concerning adoption of proposed local law #6, 2010, and

**WHEREAS**, proposed local law #6, 2010, calls for the addition of a new chapter to the Town Code of the Town of Hamburg to outline residency requirements for employees of the Town of Hamburg

**NOW THEREFORE BE IT RESOLVED** that the Hamburg Town Board adopt the proposed amendment to the Town Code of the Town of Hamburg to read as follows:

### Residency Requirements for Employees of the Town of Hamburg

#### Section 1

The Town Board of the Town of Hamburg recognizes that emergency work situations and emergencies arise which require employees of the Town of Hamburg to be near their place of employment and to assure the continuation of public services to protect health, safety and general welfare of the people. The Town Board considers residency by Town employees and officers within the community will assure continuation of essential public services. The Town Board determines that the public need is sufficient to require that future employees, after the effective date of this local law, be residents of the Town of Hamburg.

#### Section 2-DEFINITION

Residency shall mean, for the purpose of this local law, the actual domicile of an individual, where he/she normally sleeps and maintains usual personal and household effects.

#### Section 3-RESIDENCY FOR EMPLOYEES

##### A. NEW EMPLOYEES

Except as otherwise provided by law, the Town Board hereby establishes a residency requirement for all prospective employees of the Town. Every person commencing employment with the Town of Hamburg, on or after the effective date hereof shall, as qualifications of employment, become a resident of the Town of Hamburg within six (6) months of the date of initial service for the Town. No individual shall cease to be resident of the Town during the term of such service.

## B. CURRENT EMPLOYEES

All current employees of the Town of Hamburg, if not a resident of the Town of Hamburg at the time this local law takes effect, shall become a resident of the Town of Hamburg within twelve (12) months after the effective date of this local law. Upon a written application demonstrating a hardship or other good cause, a current employee may request an extension of six (6) months to become a resident of the Town of Hamburg, and successive extensions of six (6) months, all such extensions to be approved by the Town Board.

## C. TOWN CLERK, HIGHWAY SUPERINTENDENT, RECREATION SUPERVISOR, TOWN ATTORNEY

The Town Clerk, Highway Superintendent, Recreation Supervisor, Town Attorney in office or appointed and acting on the effective date of this local law must be and must continue to be a resident of the Town of Hamburg as long as such person holds such office or position.

### Section 4-Posting

A copy of this local law shall be provided to all employees upon initial employment or appointment. However, the failure to do so shall not affect the applicability of this local law to any employee appointed or hired after its effective date. A copy of this law shall also be posted on all notice boards normally used for employee communications.

### Section 5-Breach of Residency Requirements

Should it be alleged that an employee is not in compliance with Section 3 of this local law, the Supervisor, upon becoming aware of the allegation, shall provide the employee written notice of his/her alleged violation and shall allow the employee seven (7) calendar days in which to respond. Where there is a failure to respond or where a response is not, in the judgment of the Supervisor, sufficient to satisfy the requirements of the local law, the Supervisor shall designate an officer or board to set a hearing date to hear the charge of non-residency and to make a record of the hearing. An employee establishing residency to the satisfaction of the Supervisor prior to the hearing date shall result in cancellation of the hearing authorized by this section.

The employee shall be sent notice of the hearing date at least fifteen (15) days prior to the hearing. The hearing record and the determination of the hearing officer or board conducting the hearing as to whether the employee is a nonresident in violation of this local law shall be referred to the Supervisor for his/her review and decision. Should the Supervisor decide that the employee is a nonresident in violation of this local law, the employee shall be deemed to have voluntarily resigned from employment. Upon reestablishing residency, an individual having so resigned may apply for reinstatement to his/her former position and shall be reinstated if the position is vacant.

### Section 6-Waiver of Requirements

In the event that the Town Board determines that it is in the best interest of the Town of Hamburg to do so, the provision of Section 3 may be waived with respect to an incumbent or incumbents of a particular title or titles in accordance with the following standards:

- a) Lack of Applicants. The requirements of residency may be waived in those instances where the Town Board has difficulty hiring persons because of the residency requirements.
- b) Necessity of Non-Residency. The requirement of residency may be waived in those instances where it is determined that residency is not in the best interests of the Town. Such a waiver shall be by resolution of the Town Board and shall not, in any way, affect the application of Section 3 of this local law with respect to any other title or titles.

### Section 7-Savings Clause

In the event that this local law or any provision of it shall be deemed by a court to be in conflict with the provision of the New York State Constitution or if adherence to or enforcement of any section of this local law shall be restrained by a court, the remaining provisions of this local law shall not be affected.

If a provision of this local law shall conflict with a provision of a collective bargaining agreement between the Town of Hamburg and an employee organization representing employees of the Town of Hamburg, the provisions of the collective bargaining agreement shall apply with respect to the employee or employees covered by the agreement.

### Section 8-Effective Date.

This local law shall take effect immediately.

The following spoke concerning resolution #24:

Supervisor Walters, Tom Best Jr., (P.B.A.), Joe O'Brien, Tom Best, Sr., Roseanne Nadrich (President of Dispatchers), Larry Bednarz (Highway Department), Tom Taylor, Sr. Public Safety Dispatcher, Don Weiss, Reanna Worth, Councilman Gorman, Councilman Collins

**25.**

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

ADOPTED                   Ayes 5           Walters, Smardz, Collins, Gorman, Ziegler  
                                   Noes 0

**RESOLVED**, that the Town Board authorize the Supervisor to sign Section 6 of the PO-17 form requesting Erie County Department of Personnel to complete Section 7 for the classification of 10 new POLICE MATRONS part time for the Police Department. Also to approve the Supervisor to sign Section 8 of the PO-17 form in creating these Police Matron positions.

**26.**

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

ADOPTED                   Ayes 5           Walters, Smardz, Collins, Gorman, Ziegler  
                                   Noes 0

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

1. Gearhart, John	Laborer, Part-time	12/13/10	Terminated
2. Gearhart, John	Laborer, Temp. Full Time	12/14/10	\$21.31/hr

**27.**

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

ADOPTED                   Ayes 3           Walters, Smardz, Ziegler  
                                   Noes 2           Collins, Gorman

**RESOLVED**, upon the request of the Frontier Central Board of Education, that the Hamburg Town Board appoint Paul Pellicano as a Director of the Town of Hamburg Industrial Development Agency replacing Janet Plarr effective immediately, and

**BE IT FURTHER RESOLVED**, that the Hamburg Town Board appoint Amy Ziegler as a Director of the Town of Hamburg Industrial Development Agency, replacing Kevin Smardz, effective immediately.

**28.**

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

ADOPTED	Ayes 5	Walters, Smardz, Collins, Gorman, Ziegler
	Noes 0	

**WHEREAS**, the Town of Hamburg has received correspondence from residents and property owners on Southwestern Boulevard, between the new Lowes Store and Howard Road, requesting that their property be rezoned to commercial in accordance with the Town’s Comprehensive Plan, and;

**WHEREAS**, the Hamburg code Review Committee and Planning Department have reviewed this request and found merit with it, and;

**WHEREAS**, the Town Board has had two public hearings on potential different rezoning concepts of these lands and has completed a SEQR coordinated review process, and

**WHEREAS**, based on continued input from property owners and surrounding residents, the code review committee has recommended a rezoning plan that addresses the comments received at the public hearings and from the property owners, and,

**WHEREAS**, this rezoning plan includes rezoning 4888, 4882, 4876, 4870, 4862 Southwestern Boulevard and the small vacant parcel to the east of 4862 Southwestern Boulevard and includes a buffer zone of 50 feet along the rear of all these properties, and

**WHEREAS**, this plan is very similar to the plan presented at the first public hearing and reflects the comments received; it is, therefore, not necessary to hold another public hearing and,

**WHEREAS**, although it is not necessary to hold another public hearing on this potential rezoning, the Town would like to provide notice to the public prior to making a decision on this action.

**NOW THEREFORE BE IT RESOLVED**, that the Planning Department is hereby authorized to produce the documentation necessary to proceed with this action at the next Town Board meeting, and

**BE IT FINALLY RESOLVED** that the Planning Department coordinate the notification of the interested property owners in the area to inform them of the potential upcoming action.

The following spoke concerning resolution #28:

Drew Reilly, Councilman Collins

**29.**

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

ADOPTED	Ayes 3	Walters, Smardz, Ziegler
	Abstain	Collins
	Noes 1	Gorman

**BE IT RESOLVED**, that the Town Board authorize the Supervisor to sign a contract with Mary Eisenhower for Employee Assistance Program (EAP) and the Collins Correctional Youth Program. The hourly rate of the agreement will be set at \$35.00 per hour. The term of this agreement will be effective from December 13, 2010 through December 13, 2011 and the Town of Hamburg shall reserve the right to terminate this agreement at any time. Funding for this agreement is available in Account A3121.456, Consulting Fees.

The following spoke concerning resolution #29:

Councilman Gorman, Supervisor Walters

**30.**

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

ADOPTED	Ayes 5	Walters, Smardz, Collins, Gorman, Ziegler
	Noes 0	

**RESOLVED**, that the Town Board authorize the Police Department and the Emergency Management Department to purchase the following vehicles in their 2011 Account from NYS Contract #PC6503.

Two (2), 2011 Chevrolet Tahoes, in the total amount of \$66,931.92.

Money is available in the 2011 Budget, Accounts: B3120.202 and A8760.201.

**31.**

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

ADOPTED	Ayes	5	Walters, Smardz, Collins, Gorman, Ziegler
	Noes	0	

**WHEREAS**, ERIE WIND LLC intends to construct a wind energy system in Erie County, New York, consisting of up to six wind turbines rated to produce up to 15 megawatts of electric power (the "Wind Farm") which includes up to four turbines located on certain real property (the "Land") within the Town of Hamburg, County of Erie and Frontier Central School District (each a "Tax Jurisdiction" and collectively, the "Tax Jurisdiction"). The portion of the Wind Farm located within the Tax Jurisdictions is hereinafter referred to as the "Project", and

**WHEREAS**, the Town of Hamburg, County of Erie and Frontier Central Scholl District contemplate that the project will be tax-exempt pursuant to New York State Real Property Tax Law ("RPTL") Section 487 and that, as long as the Project enjoys tax exempt status, Erie Wind LLC intends to make certain RPTL 487 payments in lieu of taxes ("PILOT Payments") to the Tax Jurisdictions, and

**WHEREAS**, the Town of Hamburg, County of Erie and Frontier Central School District previously executed an agreement regarding the RPTL §487 real property tax exemption for the Project and the PILOT Payments with respect thereto, and

**WHEREAS**, delays in completing all of the required PILOT agreements and other circumstances beyond Erie Wind's control have delayed construction of the project, requiring an amendment of the PILOT agreement to extend the date upon which the Town may opt out of the RPTL §487 property tax exemption for wind energy systems, from March 31, 2011 to December 31, 2011,

**NOW THEREFORE BE IT RESOLVED** that the Town of Hamburg approves the amendment to the PILOT agreement pursuant to RPTL §487, payment in lieu of taxes, with Erie Wind LLC, Frontier Central School District and the County of Erie,

**BE IT FURTHER RESOLVED** that the Supervisor is authorized to sign the amendment to the PILOT agreement on behalf of the Town, a copy of which is attached hereto.

**AMENDMENT TO  
AMENDED AND RESTATED RPTL SECTION 487  
PAYMENT IN LIEU OF TAX AGREEMENT**

**THIS AMENDMENT TO AMENDED AND RESTATED RPTL SECTION 487 PAYMENT IN LIEU OF TAX AGREEMENT** (this "Amendment") dated as of December \_\_, 2010, between ERIE WIND, LLC, a limited liability company organized under the laws of the State of Delaware (the "Company"), the TOWN OF HAMBURG, a municipal corporation (the "Town"), the COUNTY OF ERIE, a municipal corporation (the "County") and the FRONTIER CENTRAL SCHOOL DISTRICT, a New York school district (the "School District") (the Town, County and School District are each hereinafter referred to as a "Tax Jurisdiction" and collectively as the "Tax Jurisdictions").

**WHEREAS**, the parties previously entered into a certain Amended and Restated RPTL Section 487 Payment in Lieu of Tax Agreement effective as of the \_\_ day of October, 2010 (the "PILOT Agreement") relating to the wind energy system to be constructed by the Company in Erie County, New York, a portion of which is to be located within the Town (the "Project"); and

**WHEREAS**, pursuant to the PILOT Agreement, each Tax Jurisdiction may opt-out of the Real Property Tax Law ("RPTL") Section 487 real property tax exemption for wind energy systems any time after March 31, 2011; and

**WHEREAS**, due to delays beyond its control, the Company has determined that the Project will not be completed before March 31, 2011, so the parties now desire to extend the earliest date upon which the Tax Jurisdictions may opt-out of the RPTL Section 487 real property tax exemption.

**NOW, THEREFORE**, in consideration of the mutual agreements contained in this Amendment and other good and valuable consideration, the receipt of which are hereby acknowledged, the parties agree as set forth herein.

**Section 1. Definitions and Interpretations.**

**(a) Definition of PILOT Agreement.** Whenever used in the PILOT Agreement or in this Amendment, the terms "PILOT Agreement" and "Agreement" shall mean the PILOT Agreement as amended by this Amendment.

**(b) Terms.** Unless otherwise defined in this Amendment, or unless the context otherwise requires, the terms defined in the PILOT Agreement, as amended by this Amendment, shall have the same meanings in this Amendment.

**Section 2. Amendment to the PILOT Agreement.**

Section 2(c) of the PILOT Agreement is hereby amended to read, in its entirety, as follows:

(c) Each Tax Jurisdiction agrees that it shall not opt-out of the RPTL 487 exemption prior to the earlier of (i) the date the Company provides written notice to the Tax Jurisdiction that it has completed construction of the Project, or (ii) December 31, 2011.

**Section 3. Miscellaneous.**

(a) **Effective Date of Amendment.** The amendment made by this Amendment shall take effect immediately.

(b) **Authority of the Parties.** Each party represents and warrants that it has full legal power and authority to enter into this Amendment and this Amendment is fully enforceable against it in accordance with its terms.

(c) **Successors and Assigns.** The rights and obligations of the parties to this Amendment shall inure to their respective successors and assigns.

(d) **Severability.** In the event that any provision of this Amendment shall be held to be invalid in any circumstance, such invalidity shall not affect any other provisions or circumstances.

(e) **Counterparts.** This Amendment may be executed and delivered in any number of counterparts, each of which shall be deemed to be an original, but such counterparts together shall constitute one and the same instrument.

(f) **PILOT Agreement Affirmed.** Except as otherwise expressly amended by this Amendment, the provisions of the PILOT Agreement shall remain unchanged, binding, and in full force and effect.

(g) **Captions.** The captions of this Amendment are for convenience only and shall not affect the construction hereof.

(h) **Governing Law.** This instrument shall be governed by the laws of the State of New York.

*[Remainder of page intentionally left blank]*

**IN WITNESS WHEREOF**, the parties have caused this Amendment to be duly executed as of the date first above written.

TOWN OF HAMBURG

By: \_\_\_\_\_  
Printed Name:  
Title:

FRONTIER CENTRAL SCHOOL DISTRICT

By: \_\_\_\_\_  
Printed Name:  
Title:

**IN WITNESS WHEREOF**, the parties have caused this Amended and Restated RPTL 487 Payment in Lieu of Tax Agreement to be executed in their respective names by their respective authorized officers as of the date first above written.

COUNTY OF ERIE

ERIE WIND, LLC  
By: First Wind New York Holdings, LLC,  
its Sole Member

\_\_\_\_\_  
CHRIS COLLINS  
County Executive

\_\_\_\_\_  
Name: Elizabeth Weir  
Title: Assistant Secretary

**APPROVED AS TO FORM**

**APPROVED AS TO CONTENT**

\_\_\_\_\_  
Gregory Kammer  
Assistant County Attorney

\_\_\_\_\_  
Kathy Konst  
Commissioner, Erie County Department of  
Environment and Planning

Doc. No.: \_\_\_\_\_

Dated: \_\_\_\_\_

**COMMONWEALTH OF MASSACHUSETTS)  
COUNTY OF SUFFOLK) ss.:**

On the \_\_\_\_ day of December, in the year 2010, before me, the undersigned, a notary public in and for said state, personally appeared ELIZABETH WEIR, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the entity or individual upon behalf of which the individual acted, executed the instrument.

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Notary Public

**STATE OF NEW YORK)  
COUNTY OF ERIE ) ss.:**

On this \_\_\_\_ day of December, in the year 2010, before me, the undersigned, personally appeared CHRIS COLLINS, Erie County Executive/JEFF HART, Deputy County Executive, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the entity or individual upon behalf of which the individual acted, executed the instrument.

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Notary Public

**32.**

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

ADOPTED	Ayes	3	Walters, Smardz, Ziegler
	Noes	2	Collins, Gorman

**WHEREAS**, on or about November 4, 2009, Joseph Collins, through the Collins Law Office, did file a Notice of Claim against the Town of Hamburg and a certain Town elected official, and

**WHEREAS**, as of January 1, 2010, Councilman Joseph Collins, through the Collins Law Firm, maintained and continued a Notice of Claim against the Town of Hamburg and a certain Town elected official, and

**WHEREAS**, on or about February 1, 2010, Councilman Joseph Collins approached certain Town employees during work hours and caused and or directed them to post solicitations from the law firm of Collins and Brown, a firm in which he has or has had a fiduciary relationship or otherwise, and

**WHEREAS**, on or about May 7, 2010, Councilman Joseph Collins filed or caused to be filed with the Town Clerk, a Notice of Defect on behalf of a resident of the Town of Hamburg, and

**WHEREAS**, on or about March 26, 2010, Councilman Joseph Collins represented and or otherwise assisted an employee of the Town of Hamburg in filing a claim against the Town of Hamburg, and

**WHEREAS**, the above described matters regarding the Notice of Claim and act of solicitation were reviewed by independent legal counsel; and

**WHEREAS**, independent legal counsel rendered an opinion that there appeared to be violations of the Town of Hamburg Code of Ethics and recommended that all matters be referred to the Town Board of Ethics for review and for an advisory opinion, and

**WHEREAS**, the above described matters regarding the filing of a Notice of Claim, the act of solicitation, the filing of a Notice of Defect and the representation of a Town employee were referred to the Board of Ethics for review and for an advisory opinion, and

**WHEREAS**, following a review of the above described matters, the Board of Ethics rendered an advisory opinion that Councilman Joseph Collins violated the Town of Hamburg Code of Ethics and recommended the Hamburg Town Board undertake appropriate action to address these violations, and others as described hereafter, and

**WHEREAS**, based upon an email dated September 29, 2010, and forwarded to all officers and employees of the Town of Hamburg, Councilman Joseph Collins was alleged to have violated section 8-10 of the Town Code of Ethics, which prohibits the disclosure of confidential information concerning the property, government or affairs of the Town or any other confidential information of an official character, including unauthorized public comments concerning confidential Town business, and further, such email contained misstatements of fact, impugned an individual's integrity and undermined the individual's work for and on behalf of the Town, and

**WHEREAS**, by complaint filed on or about June 17, 2010, it has been alleged that Councilman Joseph Collins harassed a certain female employee of the Town of Hamburg, and

**WHEREAS**, the complaint was submitted to the Town of Hamburg Employee Assistance Program and the Town of Hamburg Human Resources Department for investigation, and

**WHEREAS**, following an investigation, the Town of Hamburg Employee Assistance Program and the Town of Hamburg Human Resources Department found violations of the Town of Hamburg Non Harassment Policy and thereafter referred the matter to the Town Board for further action, and

**WHEREAS**, the Town Board provided notice to Councilman Joseph Collins affording him the opportunity to address all of the above described matters by written submission and in person, and

**WHEREAS**, on or about October 23, 2010, Councilman Collins exercised the opportunity to be heard and submitted documents in response thereto,

**NOW THEREFORE BE IT RESOLVED** that the Town Board acknowledges and accepts the advisory opinion of the Board of Ethics, the investigation by and referral from the Town of Hamburg Employee Assistance Program, and the Town of Hamburg Human Resources Department, as follows:

1. That by filing a Notice of Claim against the Town of Hamburg and a certain Town elected official, Councilman Joseph Collins violated the Town of Hamburg Code of Ethics by failing to disclose this conflict of interest, by failing to recuse himself from votes of the Town Board regarding matters that directly or indirectly relate to the Notice of Claim, and by engaging in the practice of law before and/or against the Town of Hamburg,

2. That by ordering or otherwise causing certain Town employees to post solicitations for the law firm of Collins and Brown during work hours, Councilman Joseph Collins violated the Town of Hamburg Code of Ethics by breaching his fiduciary duty to the Town of Hamburg and engaged in conduct that is self dealing, a conflict of interest and impairs his independence of judgment in the exercise of his official duties.
3. That by filing or causing to be filed with the Town Clerk a Notice of Defect on behalf of a resident of the Town of Hamburg, Councilman Joseph Collins violated the Town of Hamburg Code of Ethics by breaching his fiduciary duty to the Town of Hamburg and engaged in conduct that is self dealing, a conflict of interest and impairs his independence of judgment in the exercise of his official duties.
4. That by representing and/or otherwise assisting an employee of the Town of Hamburg in filing a claim against the Town of Hamburg, Councilman Joseph Collins violated the Town of Hamburg Code of Ethics by breaching his fiduciary duty to the Town of Hamburg and engaged in conduct that is self dealing, a conflict of interest and impairs his independence of judgment in the exercise of his official duties and further engaged in the practice of law before and/or against the Town of Hamburg and failed to disclose his interest in the matter, whether direct or indirect, as required by the Code of Ethics.
5. That Councilman Joseph Collins did violate section 8-10 of the Code of Ethics, which prohibits the disclosure of confidential information concerning the property, government or affairs of the Town or any other confidential information of an official character, including unauthorized public comments concerning confidential Town business, and that such disclosure contained misstatement of facts, impugned an individual's integrity and undermined the individual's work for and on behalf of the Town.
6. That Councilman Joseph Collins did violate the Town of Hamburg Non Harassment Policy.

**BE IT FURTHER RESOLVED** that the Town of Hamburg Town Board, by public censure, does hereby advise Councilman Joseph Collins to cease and desist from any conduct which the Board of Ethics, the Town of Hamburg Employee Assistance Program and or the Town of Hamburg Human Resources Department have opined was in violation of the policies of the Town of Hamburg and further, to comply with all provisions of the Town Code of Ethics, the Town of Hamburg Non Harassment Policy and all other policies in full force and effect in the Town of Hamburg.

**BE IT FURTHER RESOLVED**, that the Town of Hamburg Town Board hereby advises Councilman Joseph Collins to recuse himself from participating in any matters or other business coming before the Town where he maintains an interest, directly or indirectly, which creates a conflict of interest with the performance of his official duties for the Town of Hamburg, or which impairs his independence of judgment in the exercise of his official duties for the Town of Hamburg, including any matters that deal with the expenditure of town funds and are related to such matters;

**BE IT FURTHER RESOLVED**, that the Town of Hamburg Town Board hereby advises Councilman Joseph Collins that his failure to disclose any interest which creates a conflict of interest with the performance of his official duties, or which impairs his independence of judgment in the exercise of his official duties, and his failure to recuse himself from such matters, including any matters that deal with the expenditure of town funds and are related to such matters, may constitute a further violation of the Town of Hamburg Code of Ethics; and

**BE IT FURTHER RESOLVED**, that the Town of Hamburg Town Board hereby recommends that these matters be referred to the Erie County District Attorney for review to determine whether to file a proceeding for removal of Councilman Joseph Collins

The following spoke concerning resolution #32:

Councilman Gorman, Councilwoman Ziegler, Councilman Collins, Councilman Smardz, Supervisor Walters, Ken Farrell, Ferd Garcia, Don Weiss, Laura Hahn

**33.**

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

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

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

TOWN BOARD DECEMBER 13, 2010  
AUDIT OF CASH DISBURSEMENTS

VOUCHER #'S

OPERATING FUND:

BATCH #122	\$524,150.07	44899-44986
BATCH #123	\$4,824.38	44987
BATCH #124	\$14,963.50	44988

BATCH #125	\$212,667.79	44989-45052	
BATCH #126	\$2,343.31	45053	
BATCH #127	\$42,846.09	UNPROCESSED	
TOTAL OPERATING FUND DISBURSEMENTS:			\$801,795.14
TRUST & AGENCY:			
TOTAL TRUST & AGENCY DISBURSEMENTS:			\$0.00
CAPITAL FUND DISBURSEMENTS:			
BATCH #43	\$58,476.65	UNPROCESSED	
TOTAL CAPITAL FUND DISBURSEMENTS:			\$58,476.65
PAYROLL:			
PR #P/R 25	\$1,026,969.47		
TOTAL PAYROLL DISBURSEMENTS:			\$1,026,969.47
PETTY CASH			\$0.00
TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT:			\$1,887,241.26

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

Councilman Collins reports that the Community Development Department had the necessary public hearing pertaining to funding that is available for the 2011 year. Chris Hull does a great job and sends him an accounting every month and is in compliance with all Federal regulations.

Councilman Gorman reports that the downsizing committee will resume meetings in January to work on a report and recommendation, since downsizing will occur at the end of next year; forward any suggestions.

Councilman Smardz thanks the taxpayers for giving him the opportunity to serve.

Supervisor Walters reports that January 3<sup>rd</sup> will be the Town's reorganizational meeting.

Catherine Rybczynski, Town Clerk, reports she has e-mailed the proposed 2011 reorg agenda for the Councilman to look at. She will need an update on appointments for next year. School Tax collection is complete and turned over the County. New dog tags have been received and the Town will begin to issue licenses January 1<sup>st</sup>.

Marty Denecke, Recreation, reports that there are a number of public skates scheduled for the holidays call for complete schedule.

Mike Williams, Police Chief, thanks Superintendent Best and the Locksley Park Taxpayers Association for allowing them to hold the 2010 Polar Plunge at the Hamburg Town Beach, it was bigger than expected and they raised about \$150,000 for the Special Olympics.

Tom Taylor, Dispatch, thanks the Town Board for allowing Dispatch to complete the second half of their equipment update.

Jerry Giglio, Traffic Safety, thanks the Town Police for their assistance.

Glenn Zawierucha, Emergency Services, also thanks the Board for the update to Public Safety Dispatch.

### **Business from the Floor**

The following spoke concerning a request to re-name 6490 Taylor Road to Taylor Woods Road:

Bill Haslinger, Supervisor Walters, Councilman Collins, Tom Taylor, Pat Haslinger, Councilman Gorman, Ken Farrell.

The following spoke concerning the Town of Hamburg acquiring the 8.8 acres adjoining the Lake Shore Little League Park:

Don Weiss

The following spoke concerning the Town taking over Woodlawn Beach State Park:

Steve Strnad, Supervisor Walters, Councilman Gorman, Joe O'Brien, Ferd Garcia, Don Weiss, Peter Tarasow

The following spoke concerning the maintenance of the Town of Hamburg Beach:

Joe Kilian, Supervisor Walters

Supervisor Walters presents a plaque to Councilman Smardz for his service to the Town.

**34.**

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

ADOPTED	Ayes	5	Walters, Smardz, Collins, Gorman, Ziegler
	Noes	0	

**RESOLVED,** that the Town Board Adjourn at 10:17 p.m.

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Catherine A. Rybczynski, Town Clerk