

Meeting No. 24
December 22, 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 Hochul	Councilwoman
	Joan A. Kesner	Councilwoman
	Thomas Quatroche, Jr.	Councilman

Also Present:	George Danyluk	Town Clerk
	Richard Boehm	Deputy Town Attorney
	James Spute	Finance Director
	Drew Reilly	Planning Consultant
	Richard Crandall	Planning Board Chairman
	Timothy Ellis	Traffic Safety Coordinator
	Thomas Best	Police Captain
	Kurt Allen	Supervising Building Inspector

Pledge of Allegiance was recited.

Information on Fire Exits was provided.

7:00 p.m. Public Hearing for proposed local law to be known as proposed local law #12, 1997; said local law provides for the amendment of Local Law #10, 1986, Chapter 280 of the Code of the Town of Hamburg.

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

**LEGAL NOTICE
TOWN OF HAMBURG
NOTICE OF HEARING ON PROPOSED LOCAL LAW #12, 1997**

PLEASE TAKE NOTICE, that there has been presented to the Town Board of the Town of Hamburg, on November 17, 1997, pursuant to the Municipal Home Rule Law, a proposed local law to be known as proposed local law #12, 1997; said local law provides for the amendment of Local Law #10, 1986, Chapter 280 of the Code of the Town of Hamburg. This proposed local law includes substantial revisions to the commercial zoning districts in the Town.

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

HAMBURG TOWN HALL
S-6100 South Park Avenue
Hamburg, New York 14075

HAMBURG VILLAGE HALL
100 Main Street
Hamburg, New York 14075

BLASDELL VILLAGE HALL
121 Miriam Avenue
Blasdell, New York 14219

**CHAMBER OF COMMERCE
OF HAMBURG, INC.**
1 Centennial Park
Hamburg, New York 14075

HAMBURG PUBLIC LIBRARY
102 Buffalo Street
Hamburg, New York 14075

BLASDELL BRANCH LIBRARY
54 Madison Avenue
Blasdell, New York 14219

LAKE SHORE BRANCH LIBRARY

S-4857 Lake Shore Road
Hamburg, New York 14075

Due to the comprehensive nature of these Zoning Code Revisions, the Town has also instituted a hold on all rezoning and site plan applications for a period of 90 days.

The proposed rezoning is classified as a Type I action for environmental review. The Town of Hamburg is requesting to be lead agency for this review. An environmental assessment is now on file in the Town Clerk's Office. Public comment is encouraged to assist the Town Board in determining the environmental significance of the proposed rezoning.

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 December 22, 1997, at 7:00 p.m. local time. At this time all persons interested may be heard.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF HAMBURG

Dated: November 17, 1997

GEORGE DANYLUK
Town Clerk

Councilman Cavalcoli states that because of the closeness to the Christmas Holidays, and for the people who could not attend, this will be held in two parts. They will extend this public hearing to January 12, 1998 at which time they will hold the second half. At that time, if there are no significant issues that have not been addressed he will urge his colleagues to be ready to adopt these ordinance changes. If there are issues to be addressed they will table again for adoption at a later date. He comments that the changes in the zoning code represent looking at the priority one items that came out of the Master Plan adoption. He thanks the zoning ordinance committee which consists of Councilwoman Hochul, himself, Dick Crandall, Drew Reilly, Kurt Allen, and Dick Boehm. Drafts were available to the public and they met with the Chamber of Commerce to discuss this.

At this time Drew Reilly reviews the changes with the audience.

Councilwoman Hochul comments that this was no small task. What they voted on last June was their blueprint. They took a long time to work out all the details.

Joe Killian, Ferndale, concerning the planned residential district, asking if there is anything on owner occupied buildings. Mr. Reilly states that a PRD allows single family, two-family, condominium and townhouses. Single family homes can be rented out, there are no specific codes dealing with owner occupied. There is nothing that prohibits non-owner occupied buildings. Councilman Cavalcoli states that they can't prohibit this, however, they have a very strong code enforcement department and if there are any issues concerning this it will be enforced.

Steve Strnad questions, on page 20, if they can cluster multiple dwellings. Mr. Reilly explains that, under PRD, yes you can cluster homes but the restrictions are not as great as in residential zoning. Steve Strnad questions if the landscaping requirements are going to be monitored under the new code. Mr. Reilly explains that this is in the McKinley commercial overlay district, which has very good landscaping requirements. In most districts they just have a general landscaping requirement, in specific districts they will have specific landscaping requirements stating that they must be maintained and will be routinely examined and enforced for upkeep through periodic inspections or in response to complaints. This may be something to consider in more areas of the Town, however, the only areas in the Town that require this are the McKinley commercial overlay district and the Southwestern overlay district. Councilwoman Hochul comments that they are looking at other areas such as the Lakeview area, Lake Shore Road, and Pleasant Avenue to be overlay districts, which would then have those same landscaping requirements.

Fern Garcia, Columbia Ave., questions if neighborhood commercial will be restricted only to the R-3 and does not include R-1 or R-2. Drew Reilly responds that it allows all of those.

Linda Cooper, North Creek Rd., wants a definition of floating zone as opposed to a rezoning approved by the Town Board. Drew Reilly responds that a floating zone means that when the Town zones something they attach a zoning district to it. Floating zone means that they have an idea for a zoning district but they are not going to attach it anywhere, they have this criteria. You as an applicant can come in and say that your property meets the requirements of PRD. The zoning is the plan that is presented and approved. Linda comments that she feels the language is fuzzy. Councilman Cavalcoli responds that any rezoning must come before the Town Board. The critical concept was not to change the intent of the original zoning in that area. For example if the property in question had been zoned R-A or R-1 and an applicant comes in with a creative plan, he could do no greater density than what is allowed by the R-A or R-1. Linda questions, on page 20, letter D. What the exception refers to. Mr. Reilly responds that what they are referring to is on page 21, the density bonus of 20%. Linda then questions if the minimum for PRD will be 20 acres. Drew Reilly responds that if they had less than that they could go to the Zoning Board of Appeals and apply for a variance. Linda questions if they can apply for a variance regarding the road access which shall be limited to approx. one per every 500 feet of frontage. Mr. Reilly replies that you can go to the Zoning Board of appeals for anything within the code. He then asks that they read the intent section. She praises the Board for their efforts.

Janet Woelfling, Lake Shore Road, questions non-conforming use. Drew Reilly comments that this is typically something that existed prior to a zoning change. If they would discontinue that use for a year they would lose that non-conforming use status. The use cannot be changed.

Phil Best questions if the business is sold to someone else can it be continued. Mr. Reilly responds that as long as the use doesn't change they can continue to run the same business under new ownership.

Fern Garcia questions if the sale would require a certificate of occupancy before the new owner could make use of the property. Mr. Allen responds that if it is the exact same use it would not require a building permit.

Linda Cooper wants a clarification that the PRD will be a formal zoning part of the code. Drew Reilly responds yes, however, there are no PRD zonings at this time. Councilman Cavalcoli suggests that she come in and go over all the numbers with Drew for clarification. She questions if the Town Board has to formally approve a PRD. The response is yes.

Janet Woelfling, Lake Shore Taxpayers, thanks the Board for all the time and effort put into this, it is a major step forward.

I.

RESOLVED, that the Town Board table the public hearing until January 12, 1997 at 7:00 p.m.

Moved: Hoak

Seconded: Cavalcoli

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

Noes: None

Carried

II.

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

December 8, 1997

Town Board Meeting

December 15, 1997

Work Session

Moved: Cavalcoli

Seconded: Kesner

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

Noes: None

Carried

Steve Strnad questions a large transfer at the Last Work Session for the Buildings & Grounds

Department. Supervisor Hoak explains that this was to purchase two new vehicles and the money was available in the 1997 B & G Budget from various accounts.

III.

RESOLVED, that Detective Kenneth Thomas be permitted to attend an "Ethics in Police Work" symposium sponsored by the Norfolk Southern Corporation Police Department in Dorchester, South Carolina from January 25 - 28, 1998. A selected number of Police Officer's throughout the Region are invited to said symposium. Transportation, food, lodging are all paid by Norfolk Southern Corporation - there is no cost to the Town.

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

Seconded: Hochul

IV.

RESOLVED, that the Town Board set a Public Hearing for the M.J. Peterson Rezoning Petition from R-A, Residential Agricultural to C-2 (Commercial) on January 12, 1998 at 7:00 p.m. in Hamburg Town Hall.

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

Seconded: Kesner

Councilman Cavalcoli comments that this public hearing is one that is being held again because of the amount of time that has lapsed. Also all the residents in the surrounding areas needed to be notified. Phil Best questions where this property is located. Councilman Cavalcoli responds that this is Commerce Park, located off Camp Road behind Bob Evans.

V.

BE IT RESOLVED, that the Town Clerk be authorized to advertise for a public hearing to consider adoption of a local law pursuant to Chapter 293 of the Laws of 1997. The local law would state specifically, Section 581 (a) of the Real Property Tax and Section 339-y of the Real Property Law shall not apply to converted condominium units,

The public hearing is scheduled for January 12, 1998, at 7:15 p.m. local time.

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

Seconded: Cavalcoli

VI.

RESOLVED, that the Town Board approve the transfer of appropriations for the Highway Department within the 1997 Budget as follows:

From:	Repair & Maint. Supplies	A5010.460	\$2,100.00
	Repair & Maint. Supplies	A7140.413	\$ 500.00
To:	Personal Services	A5010.100	\$2,600.00

To fund cleaning person for Highway Building and B & G Building.

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

Seconded: Kesner

VII.

WHEREAS, in response to various questions and information requests which were made at the July 30, 1997 Public Information Meeting for the formation of the Highland Acres Sanitary Sewer District, Malcolm Pirnie, Inc. has performed additional engineering services associated with the preparation of cost estimates and comparative cost analyses for providing sewer service to the proposed sewer district and adjacent areas. In addition, Malcolm Pirnie subcontracted with a geotechnical consultant to perform nine borings for the determination of the types of soil and rock materials to be encountered along the proposed sewer routing. This subsurface information was necessary in order to develop accurate cost estimates for the sewer installations; and

WHEREAS, these services represented additional work which was not part of Malcolm Pirnie’s contract scope associated with the sewer district formation, as awarded by the Town Board on March 10, 1997,

THEREFORE BE IT RESOLVED, that Malcolm Pirnie’s contract for this project is amended to include the above services, at an additional lump sum fee of \$7,350, and that the Supervisor is authorized to sign their October 7, 1997 proposal letter/agreement in this regard.

BE IT FURTHER RESOLVED, that these services are expected to be eligible for funding through the Clean Water/Clean Air Bond Act grant for constructing sewers in Highland Acres that the Town of Hamburg has applied for, and that Malcolm Pirnie has agreed to withhold their billings until the receipt of such funding by the Town.

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

VIII.

RESOLVED, that the Town Board approve the transfer of appropriations for the Finance Department within the 1997 Budget as follows:

From:	A Fund Contingency	A1990.419	\$413.00
To:	Cons. Bd. Seminars	A8730.492	\$413.00

To fund yearly seminar and meeting.

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

IX.

RESOLVED, that the Town Board approve the transfer of appropriations for the Finance/Planning Department within the 1997 Budget as follows:

From:	Contingency	B1990.419	\$4,815.00
To:	Planning Board	B8020.456	\$4,815.00

To cover additional services rendered from Wendel Engineering.

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

X.

RESOLVED, that the Town Board authorize the Finance Department to increase SS4 8130.450 - Cloverbank Sewer District (Service Charges by ECSSTA) \$162.00 through the appropriated fund balance SS4 599.

Moved: Hoak

Seconded: Hochul

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

Noes: None

Carried

XI.

WHEREAS, the Town Board of the Town of Hamburg has requested a home rule request from NYS Senator Dale Volker and NYS Assemblyman Dick Smith in relation to the alienation of parkland at the Town Nike Base recreation site for the erection of a telecommunications tower by Sprint Spectrum, and further described as a 100 ft. X 100 ft. Site located on the following described parcel:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Hamburg, County of Erie and State of New York, being part of Lot No. 33, Township 9, Range 8 of the Holland Land Company's Survey, bounded as follows:

BEGINNING at a point in the southerly line of Lot 33, at a distance of 1085.70 feet west of the southeast corner of said Lot 33; thence westerly along the southerly line of said Lot 33 a distance of 543.18 feet to the easterly line of lands conveyed to Mary Bossard by deed recorded in Liber 1603 of Deeds at page 529; thence northerly along the easterly line of lands so conveyed to Mary Bossard by deed aforementioned 160 feet to the southeast line of the New York State Thruway; thence northeasterly along the southeast line of said New York State Thruway; thence northeasterly along the southeast line of said New York State Thruway 688 feet more or less to the easterly line of lands conveyed to Walter E. Buxton by deed recorded in Liber 673 of Deeds at page 122; thence southerly along the easterly line of lands so conveyed to Walter E. Buxton by deed aforesaid 562 feet more or less to the point of beginning.

WHEREAS, local government does not have the power to enact such legislation by local law,

NOW THEREFORE BE IT RESOLVED, that the Hamburg Town Board approve a home rule request to approve an act in relation to authorizing the alienation of parkland by the Town of Hamburg, County of Erie, and

BE IT FURTHER RESOLVED, that certified copies of this resolution be sent to NYS Senator Volker and NYS Assemblyman Smith.

Moved: Hoak

Seconded: Quatroche

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

Noes: None

Carried

Councilman Cavalcoli explains that this a small parcel of land at the Nike site which has been recommended by the Recreation Dept. For the possible construction of a tower by Sprint. Two sites are being considered they have been assisting Sprint to locate on this site. They will be leasing this property. Phil Best asks how close this would be to the recreation area. Mr. Kapsiak comments that it is back along the Thruway at least 500 feet from the Ice Arena.

Noes: None
Carried

Councilwoman Hochul comments that the Town will be one of 30-40 applications for ISTE A funding. Being part of the Seaway Trial they should have a good shot at securing a grant for assisting us with tours and promotions, and overall improvement of the Route 5 corridor. This is very preliminary but we will pursue it.

Correspondence

George Danyluk, Town Clerk reads correspondence #191 to the public. Supervisor Hoak asks Mr. Best if they reviewed option #2 before making this recommendation to the Town. Steve Strnad comments that this was discussed at their Work Session. Supervisor Hoak responds that he is uncomfortable with the fact that the volunteers put in 600 hours to put this report together and they made a decision so quickly. Steve questions who put the report together. Frank Palowski, Big Tree Firemen, who is on the committee states that the committee was put together by the Town Chiefs. Every Fire Company was offered a seat on that committee, at the original meeting they had representation from eight companies, after that meeting the representation dropped to five. Some people were told by their representatives not to attend the meetings. He is offering a meeting on January 6th, 7:00 p.m. at the Big Tree Fire Hall. They want to be able to present their proposal fairly and show the merit of their plan. Councilwoman Kesner questions, for the record, who is the corresponding Secretary for the United Council. Steve responds - Faye Staley. Councilwoman Kesner asks how many members are in this association. Steve comments that he wants to continue with his comments. He responds that only the fire companies were involved in this and feels the taxpayers should have been involved. Supervisor Hoak states that these are the people to have input on safety and the best they can give to the residents. Steve Strnad comments that Rural Metro Employees make less than half of what is proposed. Supervisor Hoak comments that they are looking into all this. Councilman Cavalcoli comments that the United Council should put together a letter stating all of their concerns and areas that they feel are incorrect. Then when it comes to public review they will be addressed. Steve asks for a time frame before a decision is made. Supervisor Hoak and Councilwoman Kesner comment that this may not happen this year, they have a lot of research to do before any decision can be made. The Board comments that they feel not enough time was spent in making this decision. Steve Strnad comments that the taxpayers do not want taxes to go up and that is the bottom line. Faye Staley comments that she had invited Councilwoman Kesner as a speaker, she feels that this should be talked over, the more information they have the better it is. Councilman Quatroche states they want everyone to be objective, no one on the Board has made a decision on this. Fern Garcia states that he would like to see all the figures that are submitted, verified.

Wayne Hayes, Woodlawn Beach Taxpayers, comments that what he feels Steve was trying to say is that there are too many decisions being taken out of the hands of the taxpayers.

Councilwoman Hochul thanks Faye Staley for letter #192.

Supervisor Hoak notes a late correspondence thanking the Police Department for their satellite station at the Mall. They have been getting a lot of positive comments on it. Also, a thank you from Fay Staley thanking Mr. Allen on following through on the Denzel situation. They also received surveys from Scranton Volunteer Fire Co., Inc. and Newton Abbott Fire Co. concerning emergency medical services.

Reports from Board Members and Department Heads

Councilman Cavalcoli comments that anyone who needs more information on the Master Plan please contact Drew Reilly or Dick Crandall through the Planning Office and the second half of the public hearing will be held on January 12, 1998.

Councilwoman Kesner wants to encourage the taxpayers to attend the January 6th meeting at Big Tree Fire Hall, so they will have more opportunity for dialogue. Wants to wish everyone a happy holiday.

Councilwoman Hochul states that the Supervisor's Office received a letter from the Thruway Authority and Omnipoint Corp. Stating that they have reached an agreement to put cellular towers anywhere they want along the NYS Thruway System. Drew Reilly and she immediately sent correspondence to the NYS Thruway, Omnipoint and the State representatives and the NYS Thruway Authority representatives will be coming to Hamburg Town Hall to explain what is going on. This will take place January 9th at 10:00 a.m. in the Public Meeting room. They will

present a copy of our law and ask for their compliance.

Councilman Quatroche comments that the shoreline revitalization committee met and they have been awaiting a study of Old Lake Shore Road. This study has been completed and they are waiting for the Corps of Engineers to release this, Mr. Kaspiak is pressing that issue with them.

Supervisor Hoak thanks the public for their input and wishes everyone a happy holiday.

Business From the Floor

Maureen Elbow, Attorney, Karen Stamey, Environmental Attorney, and a member of Sprints engineering team, Dave Olik. She states that they would be more than happy to answer any questions concerning the Town Park site.

Ron Martin wants to offer his help to Councilwoman Hochul concerning the cellular towers along the Thruway. He questions what the towers will look like. Dave Olik responds that towers come in all shapes and sizes. They are proposing a self-supporting tower at the recreation site.

Richard Boehm comments that he received a letter from Omnipoint that stated that there preference is to co-locate onto other towers in the proximity of the Thruway.

Ann Simet, Lake Shore Preservation, asking for an update on the Rite Aid application. Councilman Cavalcoli states that there is no change in status. There is still no intention to send it to the Planning Board, it is on hold.

Matt, Bedford Dr., President Newton Abbott Fire Co., states that the reason people jumped the gun, concerning the EMS issue, is when you receive a feasibility study that paints a rosy picture and it is presented by the same people that want jobs from it you question it. He just wants to hear that they will take this study and do their own cost benefit analysis. Supervisor Hoak states yes, definitely.

Peg Herrman asks if Mr. Kaspiak has heard from Albany on the remainder of the grant. He called Albany and has not heard back from them.

George Komenda asks if there has been any decision made on the Sewer District. Supervisor Hoak responds no decision has been made.

XIV.

RESOLVED, that the Town Board adjourn to Executive Session at 9:15 p.m. for Legal and Personnel reasons.

Moved: Hoak

Seconded: Quatroche

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

Noes: None

Carried

George Danyluk, Town Clerk