

A regular meeting of the Town Board of the Town of Hamburg, County of Erie and State of New York was held at the Town Hall, S-6100 South Park Avenue, Hamburg, New York on the 22<sup>nd</sup> day of June, 2009.

#### TOWN BOARD MEMBERS

##### PRESENT:

Steven J. Walters	Supervisor
Joan M. Kesner	Councilwoman
Thomas Quattroche, Jr.	Councilman
Kevin Smardz	Councilman

OTHERS PRESENT: Catherine A. Rybczynski, Town Clerk; Mary Dosch, Sr. Account Clerk; Martin Denecke, Director of Recreation; Andrew Reilly, Planning Consultant; Tim Ellis, Traffic Safety Coordinator; Robert Hutchison, Town Assessor; Thomas Best, Sr, Highway Superintendent; Gerard Kapsiak, Town Engineer; Kenneth Farrell, Town Attorney; Christopher Hull, Director of Community Development; Kurt Allen, Supervising Code Enforcement Officer; Carmen Kesner, Chief of Police.

Pledge of Allegiance was recited.

Information on fire exits was provided.

Supervisor Walters notes that like previous meetings they will start out with Suzanne from the Character Council.

Suzanne McKenney notes that to nominate someone go to the CharacterCouncilHamburg.org This nomination of tonight was received from Chief Master Sergeant, Paul Wincheck from the 107 Airlift Wing Security Forces. For June 2009 the Character Council of Hamburg, Inc. recognizes and individual for exemplifying the character trail of JUSTICE. One individual who defines this definition is MASTER SERGEANT, MARK E. HAJDUK. Mark is nominated to receive the Integrity in Action Award for Justice.

Catherine Rybczynski, Town Clerk, reads the legal notice as published.

**7:00 p.m. Public Hearing**

**LEGAL NOTICE TOWN OF HAMBURG  
NOTICE OF PUBLIC HEARING**

PLEASE TAKE NOTICE that there has been presented to the Town Board on June 1, 2009, pursuant to the Municipal Home Rule Law, a proposed local law, to be known as proposed local law #6, 2009; said local law provides for an amendment to the Code of the Town of Hamburg, Chapter 280, entitled "Zoning", Article XII, Neighborhood Commercial General Residence District, Section 280-60(A)(13):

Article XII, Neighborhood Commercial General Residence District:

Section 280-60 (A)(13) Permitted uses and structures: Personal Service establishments, including but not limited to barbershops, beauty parlors, glove or hat cleaning or repair, hand laundry, laundromats, dry cleaning, **glass shops** and small appliance repair."

Under Item B. Accessory uses and structures, add a new item **(3), "Installations of glass at an approved glass shop".**

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 June 22, 2009 at 7:00 p.m. (local time), at which time all interested persons may be heard.

Dated: June 1, 2009

Catherine Rybczynski  
Town Clerk  
Town of Hamburg

Catherine A. Rybczynski, Town Clerk, notes there was no correspondence received.

Drew Reilly gives a brief description of the law noting this is to clarify these two components that wasn't clear prior.

Joe Killian questions if this is the same neighborhood commercial that allows 1,000 -2,000 square feet.

Mr. Reilly replies it is. Neighborhood commercial limits the size of all structures.

1.

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

**RESOLVED**, that the Town Board motion to close the public hearing with no further action tonight.

2.

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

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

05/11/09 Town Board Meeting

06/01/09 Work Session

## 06/15/09 Work Session

2.

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

**BE IT RESOLVED**, that the Town of Hamburg agrees to participate in binding high-low arbitration (\$27,500-\$15,000), and to abide by the arbitration panel decision in the matter of Raab vs Town of Hamburg

3

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

**WHEREAS**, there is pending litigation, ANDREW STAUDACHER and THERESA STAUDACHER VS. TOWN OF HAMBURG, Erie County Supreme Court Index Number I2008-013699, and

**WHEREAS**, counsel for the parties have engaged in settlement negotiations, and

**WHEREAS**, the Plaintiffs have advised they will accept the sum of \$4,500 in full and final satisfaction of all claims, and

**WHEREAS**, counsel for the Town of Hamburg, Chiacchia & Fleming, LLP, recommends that the Town pay the sum of \$4,500, in settlement of this claim,

**NOW THEREFORE BE IT RESOLVED**, that the Town of Hamburg pay the Plaintiffs the sum of \$4,500 in full and final satisfaction of all claims against the Town of Hamburg in the action ANDREW STAUDACHER and THERESA STAUDACHER VS. TOWN OF HAMBURG, Erie County Supreme Court Index Number I2008-013699. Payment is to be made upon receipt of signed General Releases and a Stipulation of Discontinuance of this action from the Plaintiffs.

Steve Strnad asks for an explanation of this.

Ken Farrell responds that there was water damage to a residence and they sued the town and after brief litigation this was able to be settled.

Ferd Garcia questions if this is going to be standard practice where outside law firms to handle town claims.

Ken Farrell responds that it absolutely will, most municipalities use outside council. The reasoning is the town has part time attorneys.

Joe Killian this seems like a simple lawsuit, Chiacchia & Fleming was needed for a simple lawsuit.

Mr. Farrell responds that simple is in the eyes of the beholder. The legal department is very small in terms of number of employees and hours. Sometimes it's a matter of staffing and having the man hours to do it.

4.

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

**WHEREAS**, the Town of Hamburg Ice Rink properties sustained lightning damage to primary and secondary voltage lines, transformer, lightning arresters and wiring on February 12, 2009, and

**WHEREAS**, Electrical Services & Systems Installation, Inc. furnished all labor, material and tools to repair said damage, and

**WHEREAS**, the total amount to repair the damage is \$9,839.09,

**NOW THEREFORE BE IT RESOLVED**, that the Town Board authorize payment to Electrical Services & Systems Installation, Inc. In the amount of \$9,839.09. Payment is to be made from Account Number CS1930.413, Town Property/Self Insured Loss.

Steve Strnad asks if there were other bids involved.

Supervisor Walters notes it is below the amount and it was an emergency because the ice rink was being utilized at that time.

Mr. Farrell adds that if there was advanced notice there certainly would have been more bids. All of the electrical systems to the facility were out and one of the battery back up systems was lost. The longer the system was out the more chance of additional utilities or features might be in jeopardy and cause further damage.

Mr. Strnad questions if the company is from Hamburg.

Councilman Quattroche responds that they are from Hamburg.

5.

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

ADOPTED Ayes 4 Walters, Kesner, Quattroche, Smardz

Noes 0

**RESOLVED**, that the Town Board approve the membership into the Woodlawn Volunteer Fire Co., Inc. as follows:

Dylan Seufert  
185 Labelle Ave.  
Blasdell, NY 14219

6.

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

**RESOLVED**, that the Town Board authorize alcohol waivers for the following August 2009 Taylor Road rentals:

8/01/09	8/14/09	8/24/09
8/02/09	8/15/09	8/25/09
8/03/09	8/16/09	8/28/09
8/07/09	8/21/09	8/29/09
8/08/09	8/22/09	8/30/09
8/09/09	8/23/09	

7.

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

**RESOLVED**, that the Town Board approve the transfer of appropriations in the Town Clerk's Office as follows:

FROM:

Miscellaneous	A1450.451	\$ 790.96
Rent of Locations	A1450.458	\$1200.00
Transportation	A1450.424	\$1310.00
Advertising	A1450.435	\$ 222.69
Contracted Per. Serv.	A1450.440	<u>\$5260.00</u>
		\$8783.65

TO:

Contingency	A1990.419	\$8783.65
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To fund referendum election.

## 8.

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

ADOPTED                    Ayes 4                    Walters, Kesner, Quattroche, Smardz  
                                   Noes 0

**RESOLVED**, that the Town Board approve the following hiring of 11 and terminations of 13 in the Recreation Department as follows:

1. Mahaffey, Matthew	Rec. Att'd	06/01/09	Terminate
2. Anzalone, Anthony	Rec. Att'd	06/01/09	Terminate
3. Tutzuska, Dennis	Rec. Att'd	06/01/09	Terminate
4. Walsh, David	Rec. Att'd	06/01/09	Terminate
5. Cheslak, Joseph	Rec. Att'd	06/01/09	Terminate
6. Rieske, Alexander	Rec. Att'd	06/01/09	Terminate
7. Rieske, Alexander	Rec. Att'd Seas.	06/02/09	\$7.37
8. Cox, Brady	Rec. Att'd Seas	06/09/09	\$7.37
9. Gallardo, Daniel	Rec. Att'd	06/12/09	Terminate
10. McPhee, Christa	Rec. Att'd	06/12/09	Terminate
11. Cheslak, Joseph	Rec. Att'd	06/12/09	Terminate
12. Lantzy, Josh	Rec. Att'd	06/12/09	Terminate
13. Sausner, Bryn	Rec. Att'd	06/12/09	Terminate
14. Metzen, Michael	Rec. Att'd P/T	06/15/09	\$9.00
15. White, Katherin	Rec. Att'd	06/12/09	Terminate

16. Canterbury, Carl	Rec. Att'd Seas.	06/15/09	\$7.15
17. Ork, Elizabeth	Rec. Att'd Seas.	06/16/09	\$7.15
18. Rindfuss, James	Rec. Att'd Seas.	06/16/09	\$7.15
19. Buchanan, Kelly	Rec. Att'd Seas.	06/16/09	\$7.15
20. Hosken, Kelly	Rec. Att'd	06/12/09	Terminate
21. Janicki, Alison	Lifeguard Seas	06/22/09	\$7.85
22. Battin, Megan	Rec. Att'd Seas	06/23/09	\$9.00
23. Gibson, Amy	Rec. Att'd Seas	06/23/09	\$9.00
24. Scharlock, Matthew	Rec. Att'd Seas	06/23/09	\$8.25

9.

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

**RESOLVED**, that the Town Board approve the terminations of two in the Public Safety Dispatch Department as follows:

1. Szczepanik, Mark	Public Safety Dispatch P/T	06/22/09	Terminate
2. Innocent, Jonathan	Public Safety Dispatch P/T	06/22/09	Terminate

Supervisor Walters adds that Mark Szczepanik took a job with the county and Jonathan Innocent took a job with the US Boarder Patrol. We wish them luck.

10.

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

**RESOLVED**, that the Town Board authorize the Supervisor to sign the work site agreement for the Erie County Summer Youth Employment Program.

11.

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

**BE IT RESOLVED**, that the Hamburg Town Board approve the hiring and permanent appointment of JENNIFER K. REINAGEL to the position of “COMMUNITY DEVELOPMENT AIDE” within the Department of Community Development. Ms. Reinagel is being appointed from the Erie County Civil Service list established from Exam A-62926 dated April 8, 2009 for the Community Development Aide position. The appointment shall be effective immediately with Ms. Reinagel to start Tuesday, June 23, 2009. The starting salary of \$12.22/hour is based upon the CSEA White Collar Union contract and funding for the positions salary and benefits will be paid through Town of Hamburg CDBG administrative accounts.

Councilwoman Kesner notes Jennifer is in attendance and asks her to stand while they welcome her.

12.

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

**WHEREAS**, the Town of Hamburg received a request from Benderson Development Company, LLC to rezone 16.49 acres of land zoned Light Industrial District, M - 2, located on the south side of Camp Road, west of I-90, to General Commercial District, C-2; and

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

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

**WHEREAS**, the Town of Hamburg Planning Board did issue a positive recommendation to the Town Board; and,

**WHEREAS**, on April 14, 2008, the Hamburg Town Board held the required public hearing and received comments from the public, and;

**WHEREAS**, the Hamburg Town Board met all the requirements of 6 NYCRR Part 617 pertaining to Article 8 of the Environmental Impact Statement and issued Positive SEQR Findings; and,

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

**WHEREAS**, the Town of Hamburg Town Board wishes to rezone 16.49 acres of land zoned Light Industrial District, M - 2, located on the south side of Camp Road, west of I-90, to General Commercial District, C-2 in order to construct a retail plaza, with the following conditions;

1. All development will be in accordance with the mitigations/conditions as presented in the SEQR Findings for the project.

**NOW, THEREFORE BE IT RESOLVED**, that the Zoning Code of the Town of Hamburg be amended as follows:

To amend Local Law #10 of the year 1986 of the Code of the Town of Hamburg entitled "Zoning" to provide for a change in the boundary of the zoning map whereby the zoning is changed from M - 2 to C-2 for 16.49 acres of land located on the south side of Camp Road, west of I-90.

13.

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

**WHEREAS**, the Town of Hamburg Code Review Committee has been researching issues related to the Town of Hamburg's need to establish a local Right-to-Farm Law, and the subdivision regulations requirements for the planting of two (2) trees per subdivision lot, and,

**WHEREAS**, the Code Review Committee has drafted a local Right-to-Farm Law and has suggested amendments to the subdivision regulations pertaining to the requirement for two (2) trees per lot, and,

**WHEREAS**, the Code Review Committee has recommended these laws to the Town Board and

**WHEREAS**, the Hamburg Town Board held a public hearing on these proposed laws on April 27, 2009 and,

**WHEREAS**, the Town has conducted a coordinated SEQR process and has determined that these two Law Amendments will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic consideration;

**NOW THEREFORE, BE IT RESOLVED**, that the Hamburg Town Board has determined that the proposed Law Amendments are not anticipated to result in any significant negative affect on the environment and that a Negative Declaration is hereby issued.

**14.**

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

ADOPTED                    Ayes 4                    Walters, Kesner, Quattroche, Smardz  
                                  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 local Right-to-Farm Law, and the subdivision regulations requirements for the planting of two (2) trees per subdivision lot, and,

**WHEREAS**, the Code Review Committee has drafted a local Right-to-Farm Law and has suggested amendments to the subdivision regulations pertaining to the requirement for two (2) trees per lot, and,

**WHEREAS**, the Town Board has determined that the proposed Law Amendments are not anticipated to result in any significant negative affect on the environment and have issued a Negative Declaration.

**NOW THEREFORE, BE IT RESOLVED**, that the zoning Code of the Town of Hamburg be amended as per the attached laws.

The subdivision developer is responsible for planting a minimum of two (2) deciduous trees per subdivision lot or an equivalent number of trees at 30 (thirty) feet on center along the frontage (to a maximum of 6 trees), whichever is greater (i.e. 60 foot lot = 2 trees, 100' lot = 3 trees, 150' lot = 5 trees). Corner lots will require additional trees at the same ratio of frontage. The trees are

to have a minimum caliper of 2 ½ inches measured six-inches above the ground. Trees are to be planted parallel to the street at a location in general to be a minimum of two-feet outside the highway right-of-way. Some areas may require that the location of the trees to be planted be worked out with the Building Inspector, Highway Superintendent and Town Engineer. Trees should be spaced evenly and should avoid interference with underground utilities. The tree species are to be selected from a list provided by the Planning Department. Continuity of species is required. Unless other arrangements are made, trees are to be planted prior to the issuance of a certificate of occupancy (CO). The developer is responsible for replacing any dead or diseased tree for a period of three-years after the CO is issued. It is the intent of the Town, that in those areas in which trees are preserved or natural vegetative conditions are protected, that the requirement to plant two (2) trees per lot may be waived by the Planning Board. In cases where the developer of the lots gets a “sign-off” (letter) from the homeowner requesting that the trees not be planted, the developer is required to pay a fee (in accordance with the Town’s fee schedule) in lieu of planting such trees.

#### SECTION 1. LEGISLATIVE INTENT AND PURPOSES.

The Hamburg Town Board finds, declares and determines that agriculture and family farms have contributed to the landscape, culture and quality of life in the Town of Hamburg, and are a valued part of the community. Agriculture provides locally produced, fresh commodities, maintains open space by promoting environmental quality and not increasing the demand for services provided by local governments. In order to maintain viable farming in the Town of Hamburg, farmers must be afforded protection allowing them the right to farm. When non-agricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operation or are discouraged from making investments in agricultural improvements.

It is the purpose of this law to reduce the loss of agricultural resources in the Town of Hamburg by practices inherent to, and necessary for, the business of farming to proceed and be undertaken free of reasonable and unwarranted interference or restriction.

#### SECTION 2. DEFINITIONS.

- a) “Agricultural practices” shall mean all activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm and on-farm production, processing, and marketing of agricultural products including, but not limited to, the collection, transportation, distribution, storage, and land application of animal wastes; storage, transportation, and use of equipment for tillage, planting, harvesting, irrigation, fertilization, and government-certified pesticide application; storage and use of legally permitted fertilizers, limes and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers’ instructions and warnings; storage, use and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products and livestock, for

the sale of agricultural products, and for the use of farm labor, as permitted by local and state building code and regulations; including the construction and maintenance of fences.

b) "Agricultural products" shall mean those products as defined in Section 301(2) of Article Twenty-five-AA (25-AA) of the Agricultural and Markets Law.

c) "Farm" shall mean the land, buildings, farm residential buildings, and machinery used in the production, whether for profit or otherwise, of agricultural products.

d) "Farmer" shall mean any person, organization, entity, association, partnership, or corporation engaged in the business of agriculture, for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock, poultry, fur bearing animals, or fish, the harvesting of timber or the practicing of horticulture or apiculture.

e) "Generally accepted agricultural practices" shall mean those practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe and typical to the industry or unique to the commodity as they pertain to the practices listed in Section 2a) entitled "agricultural practices".

f) "Agricultural Advisory Committee" comprised of local farmers and members of the farming industry (not to exceed five), and a member of the Hamburg Planning Board, one representative from the Erie County Farm Bureau and a Town Board liaison, as designated by the Town Board, for the purpose of providing guidance on agricultural issues and land use policies impacting farms, and to minimize, mediate and resolve conflicts between farmers and non-farm neighbors.

g) Unless specifically defined, above words or phrases used in the local law shall be interpreted so as to give them meanings they have in common usage, and to give this Local Law its most reasonable application.

### SECTION 3. RIGHT-TO-FARM DECLARATION.

Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within the Town of Hamburg at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

1) reasonable and necessary to the particular farm or farming operation,

- 2) conducted in a manner that is not negligent or reckless,
- 3) conducted in conformity with generally accepted agricultural practices,
- 4) conducted in conformity with all local, state, and federal laws and regulations,
- 5) conducted in a manner that does not constitute a threat to public health and safety or cause injury to health or safety of any person, and
- 6) conducted in a manner that does not unreasonably obstruct the free passage or use of navigable waters or public roadways.

Nothing in this Local Law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death.

#### SECTION 4. SEVERABILITY CLAUSE.

If any part of the Local Law, for any reason, is found to be unconstitutional or invalid, such decision shall not affect the remainder of this Local Law.

#### SECTION 5. DUTY OF TOWN OFFICERS AND BOARDS TO CONSIDER IMPACT OF FARM OPERATIONS ON CERTAIN APPLICATIONS.

The legislative intent and purpose of this law shall be taken into consideration by each Town officer and/or board in processing any application or request for rezoning, site plan approval, and/or special use permit approval when the property that is the subject of such application is located within one mile of an existing farm. Such Town officer and/or board shall, as part of its review of such application, determine whether appropriate and reasonable conditions may be prescribed or required, that would further the purposes and intent of this law as part of an approval of the application. Such appropriate and reasonable conditions shall be determined on a case-by-case basis and may include, but not be limited to, requiring declarations, deed restrictions and/or covenants that run with the land and would notify future purchasers and owners of the subject property that owning and occupying such property might expose them to certain discomforts or inconveniences resulting from the conditions associated with agricultural practices and operations in the Town.

#### SECTION 6. INFORMAL RESOLUTION OF DISPUTES.

- a) Should any controversy arise regarding any inconveniences or discomforts occasioned by an agricultural operation, including, but not limited to, noise, odors, fumes, dust, the operation of machinery, the storage and disposal of manure, and the application by spraying or otherwise chemical fertilizers, soil amendments, herbicides and/or pesticides, the parties may submit the controversy to the agricultural advisory committee as set forth below in an attempt to resolve the matter prior to the filing of any court action.
- b) Any controversy between the parties may be submitted to the agricultural advisory committee, whose decision shall be advisory only, within thirty (30) days of the date of the

occurrence of the particular activity giving rise to the controversy or of the date a party became aware of the occurrence.

c) The effectiveness of the agricultural advisory committee, as a forum for resolution of grievances, is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.

d) The controversy shall be presented to the committee by written request of one of the parties within the time limits prescribed above. Therefore, the committee may investigate the facts of the controversy but must, within thirty (30) days, hold a meeting to consider the merits of the matter and within twenty (20) days of the meeting must render a written decision to the parties. At the time of meeting, both parties shall have an opportunity to present what each party considers to be the pertinent facts.

## SECTION 8. EFFECTIVE DATE.

This Local Law shall be effective immediately upon acceptance by the Hamburg Town Board and filing with the New York Secretary of State.

Drew Reilly notes that they were waiting on the adoption of these laws because they had to do a county referral. They received a letter from the county and it didn't recommend against or for but they did recommend that the two trees law should consider diversity of trees. There is a list of approved trees so not all of them are the same trees.

15.

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

**BE IT RESOLVED**, that the Town Board approve the membership of one into the Lake Shore Volunteer Fire Co., Inc. as follows:

William Cocklin  
5079 Chapman Parkway  
Hamburg, NY 14075

16.

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

**BE IT RESOLVED**, that the Town Board approve the membership of two in the Lake Shore Volunteer Fire Co., Inc. as follows:

Jason Elliot  
3151 Pleasant Ave.  
Hamburg, NY 14075

Daniel Asboth  
4089 Richcrest Dr #2  
Hamburg, NY 14075

17.

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

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

Reiford, Casey	Laborer, Part-time	06/22/09	Terminate
Reiford, Casey	Laborer, Seas.	06/23/09	\$8.00

18.

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

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

Mach, Henry	Laborer, P/T	06/15/09	Terminate
Mach, Henry	Laborer, Seas.	06/16/09	\$8.00
Deinzer, Deborah	Cleaner	05/26/09	\$9.92
Moncton, Alice	Laborer, P/T	06/23/09	\$8.00

19.

On a motion of Supervisor Walters, with an unanimous second, the following resolution was  
ADOPTED              Ayes 4              Walters, Kesner, Quattroche, Smardz  
                            Noes 0



**Town of Hamburg  
Office of Supervisor**

## **In Recognition of Reverend Dr. David G. Persons**

**WHEREAS**, today we are recognizing Reverend Dr. David G. Persons for his years of dedicated service to God and the Wayside Presbyterian Church; and

**WHEREAS**, Dr. David G. Persons has dedicated thirty three years to the Wayside Presbyterian Church and the ministry of others; and

**WHEREAS**, in addition to his dedication to the church, Dr. David G. Persons is a life member of the Lake Shore Volunteer Department; and

**WHEREAS.** Dr. David G. Persons is co-founder of Task Force to Reduce the Nuclear Arms Race at the United Nations, which later became The Peace Committee of Western New York; and

**WHEREAS**, Dr. David G. Persons, in 1987, awarded grants to study meditation in ashrams in India; and

**WHEREAS,** these are just a few of Dr. David G. Persons accomplishments, during his thirty three years of service, where he devoted himself to God, the church and Hamburg community.

**NOW THEREFORE, BE IT RESOLVED**, I, Steven J. Walters, Supervisor of the Town of Hamburg, and the Hamburg Town Board, do hereby proclaim Tuesday, July 7, 2009 "Reverend Dr. David G. Persons Day" in the Town of Hamburg. We wish Dr. David G. Persons well as he enjoys his well deserved retirement, with his family, and success in all his future endeavors.

**IN WITNESS WHEREOF**, I have  
caused the seal of the Town of Hamburg  
to be affixed this 7<sup>th</sup> day of July 2009.

Steven J. Walters  
Supervisor  
Town of Hamburg

**Joan A. Kesner, Councilwoman**  
**Thomas J. Quattroche, Jr., Councilman**

20.

On a motion of Supervisor Walters, with an unanimous second, the following resolution was



**Town of Hamburg  
Office of Supervisor**

## **DEF LEPPARD DAY**

**WHEREAS**, today we are pleased to welcome Def Leppard to the Town of Hamburg; and

**WHEREAS**, Def Leppard was formed in 1977 as part of the New Wave of British Heavy Metal movement, and has been playing to their fans for 32 years; and

**WHEREAS**, Def Leppard became one of the top-selling rock bands throughout the 1980's, selling over 65 million albums worldwide; and

**WHEREAS**, throughout the years, Def Leppard has developed a loyal following from their fans; and

**WHEREAS**, Def Leppard, today, is considered one of the most iconic bands in the world; and

**WHEREAS**, the Music Exchange, in the Town of Hamburg, is holding an in store Def Leppard autograph signing; and

**WHEREAS**, the town is honored Def Leppard has chosen Hamburg, the only location on their worldwide tour, for this event.

**NOW THEREFORE**, I, Steven J. Walters, Supervisor of the Town of Hamburg, do hereby proclaim Friday, June 26, 2009 "DEF LEPPARD DAY" in the Town of Hamburg. I wish our residents to participate in this day, enjoying the iconic music of Def Leppard today and for years to come.

**IN WITNESS WHEREOF**, I have  
caused the seal of the Town of Hamburg  
to be affixed this 26<sup>th</sup> day of June 2009.

Steven J. Walters  
Supervisor  
Town of Hamburg

**Joan A. Kesner, Councilwoman  
Thomas J. Quatrocchi, Jr., Councilman  
Kevin Smardz, Councilman**



21.

On a motion of Supervisor Walters, with an unanimous second, the following resolution was  
ADOPTED              Ayes 4              Walters, Kesner, Quattroche, Smardz  
                            Noes 0



## Town of Hamburg Office of Supervisor

**WHEREAS**, the Town of Hamburg began a precedent for others to follow with the creation of the Town Traffic Safety Advisory Board in 1969; and

**WHEREAS**, the Town of Hamburg Traffic Safety Advisory Board is the oldest such board in the County of Erie and possibly New York State; and

**WHEREAS**, the inaugural meeting of the Traffic Safety Advisory Board was held forty years ago this month; and

**WHEREAS**, the members of the Traffic Safety Advisory Board exhibit the highest level of commitment and dedication to their town and exemplify a spirit of volunteerism.

**NOW THEREFORE, BE IT RESOLVED**, I, Steven J. Walters, Supervisor of the Town of Hamburg, the Hamburg Town Board and the citizens of the Town of Hamburg, publicly commemorate this event, and recognize the contributions of members, past and present, to insuring the safety and well being of the Town of Hamburg.

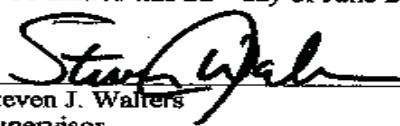
This proclamation is presented to the members of the Traffic Safety Advisory Board

Patrick Bapst  
Lindsay Dunne  
Timothy Ellis  
Jerry Giglio

Carole Gillette  
Joseph Kleinfelder  
Gerard Koenig  
Eugene Paolini

Patrick Ryan  
George Triepel  
Joseph Sacco  
William Scully  
John Tarnish

**IN WITNESS WHEREOF**, I have caused the seal of the Town of Hamburg to be affixed this 22<sup>nd</sup> day of June 2009.

  
\_\_\_\_\_  
Steven J. Walters  
Supervisor  
Town of Hamburg



Joan A. Kesner, Councilwoman  
Thomas J. Quatrocche, Jr., Councilman  
Kevin Smardz, Councilman

22.

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

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

**TOWN BOARD JUNE 22,2009**  
**AUDIT OF CASH DISBURSEMENTS**

### VOUCHER #'S

## OPERATING FUND:

BATCH #65	\$26,793.75	34702
BATCH #66	\$17,868.56	34703-34757
BATCH #67	\$26,795.10	34768-34841
BATCH #68	\$6,647.09	34842
BATCH #		
BATCH #		

TOTAL OPERATING FUND DISBURSEMENTS: \$78,104.50

## TRUST & AGENCY:

BATCH #14 \$9,900.00  
BATCH #  
BATCH #

**TOTAL TRUST & AGENCY DISBURSEMENTS:** \$9,900.00

## CAPITAL FUND DISBURSEMENTS:

BATCH #33	\$4,208.60	24758-34759
BATCH #34	\$27,500.00	34760
BATCH #35	\$195,241.39	34761-34767
BATCH #		
BATCH #		

**TOTAL CAPITAL FUND DISBURSEMENTS:** \$226,949.99

## PAYROLL:

PR #

PR #

TOTAL PAYROLL DISBURSEMENTS:	\$0.00
PETTY CASH	\$0.00
TOTAL CASH DISBURSEMENTS SUBMITTED FOR AUDIT:	\$314,954.49

**Reports from the Board:**

Councilman Quattroche commends the Recreation Department for receiving two grants totaling \$6,000. The beach is open and lifeguards are on duty from 11:00 to 8:00 p.m. The summer programs are open.

Councilwoman Kesner reports she has received a lot of complaints in reference to the odor from the Southtown's Sewer Treatment Plant. The odor is strong and not acceptable to the Town of Hamburg. When you smell this odor you are to call them to report it at: 823-8188. The Rejuvenation Committee has been doing a lot of work planning and preparing for the Blast on the Beach. This will be held July 25<sup>th</sup> and the Dash & Splash is that morning starting at 9:00 am.

Councilman Smardz reports that the Senior Service Department did receive the two new vans.

Supervisor Walters congratulates the Chief for another successful golf tournament for the Police Department this past Monday it was a great turnout and he did a wonderful job.

**Report from Departments:**

Catherine A. Rybczynski reports that the annual budget for the Town Clerk's revenue is \$18,000 which she more than exceeded it due to the passport fees that were processed and pictures. Right now it is well over \$25,000 and there is six more months to go. This Saturday the Town will hold the bike auction as well as miscellaneous office equipment at 9:00 am in the back of the Town Hall. On July 18<sup>th</sup> is Burger Fest in the Village of Hamburg on Buffalo St and Main St and it is run by the two Rotary Clubs, Lion's and the Kiwanis.

Ken Farrell reports he is following up on his report from a few months ago. They have canvassed the statistical data from the insurance carriers that are utilized and continue to trend downward on all of the claim counts and payments made for claims in both Worker's Compensation and non Worker's Compensation claims.

Tom Best reports that next week starts the paving season, this year there will be approximately 12 lane miles which will effect 25 streets, some fully and some partially. Thanks to Sheriff Howard and Brian Doyle the Town will be utilizing the services of prisoners from Erie County Correctional Facility to clean out 18 mile creek.

Carmen Kesner reports that the Police Department will have a police dog. It is in it's first stage of training.

Tim Ellis thanks the Board for recognizing the work that the Traffic Safety Board does.

Drew Reilly thanks the Board for passing the Right to Farm Law and notes they have to start considering forming an Agricultural Committee, think about volunteers for that committee.

**New business from the floor:**

Barbara Bistany, Lakeshore Rd resident, notes she has spoke to Mr. Reilly about her concern with the fencing code in the Town. She suggests looking at the law Williamsville has in place that once a fence is constructed it cannot be altered.

Supervisor Walters asks Mr. Reilly to get a copy of the Williamsville law on this.

Mike Maher, Treehaven Estates resident, he thanks the Board for the help they gave them. The Board suggested they come to a compromise and apparently Mr. Rush from Ryan Homes heard and he offered to build only ranch style patio homes next to any existing patio homes. In return Chad asked the homeowners to approve a fencing covenant for the development. The feeling was it is a reasonable compromise. The homeowners association requested a legal binding agreement from the builder and then the builder changed the number of patio/ranch homes they were going to build from 10 to four.

John Habermehl, Princeton St. resident, request the Board looks into a property adjacent to his which is 3880 Princeton St. This property has been vacant for three years. He has called Code Enforcement and they have responded. The condition of the house is deplorable. He cannot open is windows on that side of the house.

Supervisor Walters requests someone from Code Enforcement go to the property tomorrow and get a report to the Town Board on the property and course of action by the end of the week.

Mr. Habermehl also notes that the work done by E & R Construction on the water main was a great job but the road had been damaged by the trucks going down the street.

Supervisor Walters requests Mr. Best to take a look into this issue and get with Mr. Kapsiak.

Mr. Best responds that he has already talked to E & R and they are planning on fixing the street.

Patricia Michalek, Lakeview resident, notes she is a concerned taxpayer and read in the SUN that the Town finances are in solid shape. She also read that because of the unstable times the future is unsure. She questions if there is a long term fiscal plan to prepare for the future.

Supervisor Walters responds that every year the accountants come in to forecast. There is not a written long term plan. By doing the forecast taxes have been lowered two years in a row. Unfortunately with the economy things are becoming increasingly more difficult. Within the next two weeks the budget cycle will begin for the 2010 budget.

Ferd Garcia questions the stipend for the people filling in when there wasn't a highway superintendent. He wants to know if the stipend has been taken away now there is a superintendent.

Supervisor Walters responds that it has been taken away.

Joe Killian submits a list of questions from the United Council for the Board to respond to.

Supervisor Walters notes they will get answers and they will set up a meeting shortly.

Debbie Yodus Janak notes to the Board that there is a neighbor that is running a business in a residential agricultural zoned area. He brings in debris and has several trucks that are housed there. They have been to court about this and he was given a choice of either cleaning up his business and discontinuing the business at this location by April 1<sup>st</sup>. If he did not comply he would be charged \$250.00 per week he has been paying his fine every week. In the meantime the neighbors are suffering with the noise and being retaliated against. She is asking the Board to join the neighbors as one of the plaintiffs against Michael Hilty and Hilty Tree Service.

Supervisor Walters responds that the Town is doing everything possible to go through the court proceeding with the Code Enforcement Department to be very aggressive in pursuing this violation. He asks the Town Attorney to contact their attorney with respect to this situation and report back to the Board as to what the Board can and cannot do legally and what options are available.

Ken Farrell adds that he has spoken to an attorney who specializes in this area and he is forwarding the papers to him. The building department has cited Mr. Hilty, he was convicted.

Supervisor Walters adds that it appears that Mr. Hilty is encroaching on Town property.

Debbie Janak asks what the time line is that they will be getting back to them.

Ken Farrell responds that he has read through half the papers. The next meeting he will review with the Board so it will be after that.

Councilman Quattroche asks if Mr. Farrell will send a memo to the Board with a recommendation prior to the next meeting.

Steve Strnad questions the five snow plow trucks the Highway Superintendent requested to purchase and wants to know the Board's feelings on it.

Supervisor Walters responds that they know what it is going to cost and they are working on determining whether this is appropriate to purchase five at this time based on the economy. The cost is going to be just under \$650,000. The finances vs public safety has to be looked at.

**23.**

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

ADOPTED            Ayes 4            Walters, Kesner, Quattroche, Smardz  
                          Noes 0

**RESOLVED**, that the Town Board adjourn to Executive Session on a personnel matter at 8:20 pm

**24.**

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

ADOPTED            Ayes 4            Walters, Kesner, Quattroche, Smardz  
                          Noes 0

**RESOLVED**, that the Town Board close Executive Session at 9:15 pm

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Catherine A. Rybczynski, Town Clerk