

RUSH TOWN BOARD
Minutes of March 13, 2013
Regular Meeting

A regular meeting of the Rush Town Board, County of Monroe, was called to order by Supervisor Richard Anderson at 7:00 PM on March 13, 2013, at the Rush Town Hall, Rush, New York. Everyone present participated in the Pledge of Allegiance.

PRESENT:	Richard Anderson	-----	Supervisor
	William Riepe	-----	Councilperson, Deputy Town Supervisor
	Kathryn Steiner	-----	Councilperson
	Cathleen Frank	-----	Councilperson
	Daniel Woolaver	-----	Councilperson
	Pamela Bucci	-----	Town Clerk
	Frank Pavia, Esq.	-----	Town Attorney
	Charles Steinman, Esq.	-----	Town Attorney

OTHERS

PRESENT:	Marianne Rizzo	-----	Resident
	Ansgar Schmid	-----	Resident
	Carol Barnett	-----	Resident
	Dave Sluberski	-----	Resident
	Alexis Kyle	-----	Resident
	Dave Watson	-----	Resident
	Joan Starkweather	-----	Resident
	Kathryn Hankins	-----	Resident
	Dan Chase	-----	Attendee
	Jeff Koppers	-----	Attendee
	Wendy Jo Kuhn	-----	Resident
	Jim Bucci, Jr.	-----	Resident

I. OPEN FORUM

Supervisor Anderson opened the meeting and welcomed all present wishing to address the Board. Any questions presented to the Board will be answered either during the meeting or at a later date.

II. APPROVAL OF MINUTES

RESOLUTION #73-2013

Councilperson Steiner moved to approve the Regular Meeting Minutes of February 27, 2013, as submitted by Town Clerk Bucci. Councilperson Frank seconded the motion.

Roll:

Councilperson Riepe	abstained	
Councilperson Steiner	aye	
Councilperson Frank	aye	
Councilperson Woolaver	aye	
Supervisor Anderson	aye	carried.

Councilperson Riepe was excused from the February 13, 2013 meeting.

III. APPOVAL OF TRANSFER

Supervisor Anderson stated that transfers were not required.

IV. APPROVAL OF ABSTRACT

RESOLUTION #74-2013

Councilperson Steiner moved, Be It Resolved, that having audited all the claims against the funds listed on Abstract 3-1 (#5) for vouchers #218 through #274, be allowed for payment in the amount of \$54,329.38. Councilperson Riepe seconded the motion.

Roll:

Councilperson Riepe	aye	
Councilperson Steiner	aye	
Councilperson Frank	aye	
Councilperson Woolaver	aye	
Supervisor Anderson	aye	carried.

V. CORRESPONDENCE

Fyle Elementary School Letters - Supervisor Anderson stated 3 children from Fyle Elementary School, ages 9 and 10, sent letters regarding their objection to hydrofracking in their communities because of articles they read on contamination of water and that they did not want chemicals in the water. Another wrote that after reading an article on America Strikes Oil, she is concerned that she has a 6 year old sister; she don't want to die and wants both them to live full lives.

Rush Henrietta Central School District Board of Education – Supervisor Anderson stated that Board of Education has invited all Board members to a preliminary budget review meeting which will include the district's position of anticipated state revenue. All Board members are to respond directly.

Rush Henrietta Central School District Safety Team – Supervisor Anderson stated that an overview of safety items discussed was forwarded including information that S.W.A.T. training evolutions have been conducted in both the senior and middle schools. Other school districts are using Rush-Henrietta as a template for their safety and school security plan.

Brown & Brown – insurance consultant report – Supervisor Anderson has participated in 2 webinars on healthcare reform updates including one on employers with 50 employees or less and another on specific information as it relates to municipalities.

Emergency Management Workshop - Supervisor Anderson attended a public officials meeting at Monroe County. The Federal Emergency Management now acts within the Federal Homeland Security. Because Monroe County has an emergency plan in place, they have become the template county for downstate declared disasters.

VI. REPORTS OF OFFICERS AND COMMITTEES

Councilperson Riepe had no report.

Councilperson Steiner, liaison to the Conservation Board, attended to the meeting where they reviewed applications and have requested more information. As liaison to the Recreational Agricultural Citizens Committee (RACC) she attending a meeting wherein 3 subcommittees were former: buildings, land usage and image/outreach of property. A report of recommendations will be presented to the Town Board.

Councilperson Frank, as liaison to the Library Board of Trustees, reported that they discussed continued low circulations and how smaller libraries are adapting including adverting, hours of programs, etc. Although Library Director Kirsten Flass could not attend this meeting, she wished to thank all the Board members who attended the Friends Night Out fundraising event of March 9th.

Councilperson Woolaver had no report.

Supervisor Anderson reported that the NYSDOT will be performing concrete pavement restoration on Route 390 between Exit 11 (Rout 251) in Rush and Exit 10 (Routes 5&20) in Avon beginning March 15, 2013. Northbound lanes will be reduced to one lane with completion by mid August.

Supervisor Anderson stated that Monroe Community College has an updated Shooting Range schedule that will be posted on the town website.

Town Clerk Bucci asked if the Board would allow a reading of public information for clarification purposes as certain subjects have been presented at Town Board meetings.

Legal notices for meetings and public hearings of all Boards post 5 to 10 days prior to meeting in the town designated newspaper. They are also posted on the town clerk bulletin board and website. All residents are provided those avenues in order to be informed. As a courtesy and not a requirement, the town sends notices for Zoning and Planning Board public hearings to owners of parcels located within 500 feet of the parcel being presented.

By law, Board minutes must be posted and available within 2 weeks after the meeting took place. They are the Town Clerk's Minutes and the official record of the meeting.

In 2005, as a cost savings measure, the Town Board moved to print the Town Newsletter from monthly to bimonthly. Planning and Zoning applications were posted in the newsletter and in the paper. The Town Clerk's reason for posting the decisions comes from a number of requests from residents who do not utilize a computer. The timing of the newsletter prohibits posting of current information. Rush is fortunate to have a bi-monthly newsletter. Many towns, even large ones, have quarterly or annual newsletters. Supervisor Anderson requested the Monroe County Supervisors to report their town newsletter frequency. They are as follows: Bimonthly publications: Perinton through the newspaper, Riga and Rush; Quarterly: Chili and Sweden who put theirs through the newspaper; 3 times per year: Brighton, Greece, Hamlin, Henrietta which does recreation only, Penfield, Pittsford and Webster; 2 times per year: Clarkson which uses the Pennysaver; 1 time per year: Gates and Ogden, and Not at all: Irondequoit, Mendon and Parma.

Supervisor Anderson added that 18 of the 19 towns within Monroe County responded to his newsletter frequency request. Wheatland did not respond.

Rush town offices provide factual information. A recent flyer was placed in the Pennysaver providing residents with factual information that a Zoning Board public hearing is scheduled for March 14th. Unfortunately, within the flyer was misleading and incorrect information. Although the public hearing of the Turner application is scheduled tomorrow, residents have been calling or coming into the office to get factual information. The flyer which appeared to have come from the Town did not and additionally misled our community.

In the spirit of upcoming Sunshine Week, which means a celebration of open government and transparency, the open meetings law comes to light and I

invited Bob Freeman, Executive Director of the NYS Committee on Open Government to speak at the Monroe County Town Clerk & Tax Collectors meeting in March. He speaks at the NYS Town Clerk's annual conference, among other agencies. I wanted to clarify some of the subjects of the open meeting law. The law requires that items such as laws, regulations, resolution information that will be discussed at the meeting is made available to the extent practicable which is determined by the agency. In the past some information has been provided to me prior to the meeting and is available for review, copied at the requester's cost, or provided on the town website. In most cases, resolutions have not been prepared prior to the meeting. If they are done ahead of time, then they too can be available on the website prior to the meeting. There is no information intentionally withheld from the public. It would not serve anyone's benefit. The law is precise and continually states that information is available to the public "to the extent practicable".

The Freedom of Information Law provided that if a person requests information in writing, the Town Clerk may either act on it immediately or give the requester notice within 5 days of receipt that the information will be available in a given timeframe, not to exceed 20 days. If there is reason to exceed 20 days, then an explanation will be given. All of which complies with the law.

The open meetings law also states that citizen committee members appointed by the Town Board during a Town Board meeting serve a purpose. Their purpose, unless otherwise designated is to take specific action and serve as an advisory board to only the Town Board. The Town Board is the decision making, acting body. Committee meetings are not public meetings. The committee meetings are not subject to the open meetings law. Public meetings of citizen committees must be requested and public notice given as required by law.

Town Clerk Bucci submitted the February monthly report to the Supervisor showing revenues amounting to \$12,907.35. Collection of Town and County taxes continue and remaining to be collected is approximately \$430,750.

Attorney John Mancuso had no report.

Attorney Charles Steinman had no report.

Code Enforcement Officer Gerry Kusse had no report.

VII. OLD BUSINESS

A. Right to Farm Law – Supervisor Anderson reported that the Planning Board recommended modeling the Town of Gorham. Attorneys have been preparing the law. The Code Enforcement Officer has contacted an official in Gorham,

who is also a state building inspector official, who informed the Town of his position in mitigating right to farm law issues. The Planning Board has also requested that a Farmland Advisory Committee be formed. Because there are state statutes to adhere to, clarification is needed on responsibilities of the Farmland Advisory Committee and the Code Enforcement Officer.

B. Hydrofracking Moratorium Update - Supervisor Anderson has asked Larsen Engineer to resubmit their report of recommendations. Once the report is received and shared with the Citizens Working Committee on Hydrofracking, permanent action for a long-term solution will be applied. A public hearing is also scheduled for March 20, 2013, 7:15 PM in the Rush Pavilion for a proposed 6 month Extension of the Hydrofracking Moratorium. During an extension period, legislative preparation could be performed in order to create a permanent document for the Town.

VIII. NEW BUSINESS

A. Set Public Hearing date for Right to Farm Law - Although on the agenda, Supervisor Anderson stated that a public hearing will be set at a later date.

B. Resolution to Approve Annual NYS Town Clerks Association Conference - Town Clerk Bucci requested the Board's authorization to spend funds allocated in the 2013 approved budget to attend the annual New York State Town Clerks Association Conference in Buffalo, New York on April 28th – May 1st, 2013.

RESOLUTION #75-2013

Councilperson Steiner moved to authorize the Town Clerk's expenditure of budgeted funds to attend the annual New York state Town Clerks Association Conference in Buffalo, New York on April 28th – May 1st. Councilperson Woolaver seconded the motion.

Roll:

Councilperson Riepe	aye	
Councilperson Steiner	aye	
Councilperson Frank	aye	
Councilperson Woolaver	aye	
Supervisor Anderson	aye	carried.

IX. OPEN FORUM

Supervisor Anderson offered the floor to anyone wishing to address the Board.

Resident Kathryn Hankins stated that a Zoning Board public hearing is to be held regarding a use variance. Mrs. Hankins wished to ask Attorney Pavia if it should be a rezoning matter of 80 acres and presented to the Town Board rather than a Zoning Board matter as a use variance. Mrs. Hankins wanted to bring to the

Board's attention that in one of the applications she received from the Town Clerk's Office, it says 20 acres, another says 80 acres. She stated that it raises issue that it has to be a parcel rezoning matter like the Dorschel property. It also crosses the threshold of being a use variance of a partially unique parcel which then becomes an area. The 80 acres is 30% of commercial property in the Town and Mrs. Hankins wished to bring it to the Town Board for investigation. In another community, the Town Board ended up having to sue the Zoning Board. The Planning Board is engaging in review of the subdivision of the parcel and at the same time the Zoning Board is looking at a use variance of the entire parcel. The application seems to be limited in comparison to applications that she has read from other communities.

Attorney John Mancuso will take it under advisement with Town Attorney Frank Pavia who attended the Zoning Board meeting.

Resident Dave Sluberski stated that he supported the Town in looking at a Right to Farm Law, developing a farmland advisory committee and placing the burden of enforcement on current or future Code Enforcement.

Supervisor Anderson stated that under the Town of Gorham Right to Farm Law the Code Enforcement Officer (CEO) is the informant and has no administrative authority. The CEO can only refer the matter to the Town Board. Under NYS Farm Law, they advise a Farmland Advisory Committee be comprised of 2 persons who are actively involved in agriculture and 1 person who is an interested party. That has already been determined.

Resident Dave Sluberski noted that Clerk Bucci made reference to sending a courtesy letters to all property owners within 50 feet of a parcel being discussed at a public hearing and thought it was 500 feet.

Town Clerk Bucci stated that she misread her notes; Mr. Sluberski is correct, courtesy letters are sent to all property owners within 500 feet.

Resident Sluberski requested that the public be advised when the Town Museum would be opening on Saturdays.

Supervisor Anderson stated that he would confirm a date with the Town Historian.

XI. ADJOURNMENT

There being no further business, the meeting was adjourned by Supervisor

RUSH TOWN BOARD
March 13, 2013

Anderson at 7:30 PM and approved by common consent of all councilpersons present.

Respectively submitted,

Pamela J. Bucci
Town Clerk