

RUSH TOWN BOARD
Minutes of August 28, 2013

A regular meeting of the Rush Town Board, County of Monroe, was called to order by Supervisor Richard Anderson at 7:00 PM on August 28, 2013, at the Rush Town Hall, 5977 East Henrietta Road, Rush, New York. Everyone present participated in the Pledge of Allegiance.

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

OTHERS

PRESENT:	Mark David	-----	Highway Superintendent, Resident
	Ansgar Schmid	-----	Resident
	Gerald Kusse	-----	Building Inspector, Resident
	Carol Barnett	-----	Resident
	Ted Barnett	-----	Resident
	Dave Sluberski	-----	Resident
	Sandra Boysen	-----	Resident
	Julia Lederman	-----	Resident
	Jordan Kleiman	-----	Resident
	Robert Kraus	-----	Resident
	Pat Kraus	-----	Conservation Board member, Resident
	Laura Knecht	-----	Resident
	Linda Fedele	-----	Town of Victor Resident
	Beth Hoak	-----	Resident
	Selden Chase	-----	Resident
	Marianne Rizzo	-----	Resident
	Kevin Lezo	-----	Resident
	Dwan Wilder	-----	Town of Brighton Resident
	Christopher Giordano	-----	Library Board Trustee, Resident

I. OPEN FORUM

Supervisor Anderson welcomed all to the meeting and opened the floor to anyone wishing to address the Town Board. He stated that all comments should be brief and any questions asked would be answered at that time or after research, responded to at a later date.

II. APPROVAL OF MINUTES

RESOLUTION #124-2013

Councilperson Riepe moved to approve the August 14, 2013, Minutes as presented by the Town Clerk. Councilperson Frank seconded the motion.

Roll:

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

III. TRANSFER OF FUNDS

RESOLUTION #125-2013

Councilperson Steiner moved BE IT Resolved, that having audited all the unreserved, unanticipated revenues and unexpended balances of existing appropriations, I move that transfer #10 through #13 in the amount of \$49,000.00 be allowed. Supervisor Anderson seconded the motion.

BUDGET TRANSFERS/ADJUSTMENTS 8/28/2013 - 2013 FUNDS

Appropriation of unreserved fund balance or unanticipated revenues

General Funds

Transfer Number	Amount	Increase Revenue/ Decrease Fund Balance		Increase Appropriation	
		Account	Description	Account	Description
10	4,000.00	A-2001	Recreation Revenue	A-7020.4	Recreation Contractual
To reflect unplanned Tumbling classes					

Transfer from the unexpended balance of an existing appropriation'(s).

Highway Fund

Transfer Number	Amount	Decrease Appropriation		Increase Appropriation	
		Account	Description	Account	Description
11	20,000.00	DA-5148.1	Services for other Govt.'s Personal Services	DA-5130.1	Machinery Personal Services
To reallocate Highway Budget per Mark David					
12	18,000.00	DA-5148.4	Services for other Govt.'s Contractual	DA-5112.4	Road Construction Contractual
To reallocate Highway Budget per Mark David					
13	7,000.00	DA-5142.4	Town Snow Removal Contractual	DA-5110.4	Maintenance of Roads Contractual

To reallocate Highway Budget per Mark David

Roll:

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

IV. APPROVAL OF ABSTRACT

RESOLUTION #126-2013

Councilperson Steiner moved Be It Resolved, that having audited all the claims against the funds listed on Abstract 8-2 (#16), for vouchers #854 through #918 be allowed for payment in the amount of \$102,262.04. Councilperson Riepe seconded the motion.

Roll:

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

V. CORRESPONDENCE

Monroe County Sheriff Office – Zone B – Supervisor Anderson was informed by Captain Michael Fowler that he will be returning to the Rochester office, Criminal Investigation Division, and that Captain Jeffrey Wagner will be assigned to Zone B.

Monroe County Sheriff Crime Report – Supervisor Anderson informed all that Rush was not including on this month's crime report. Zone B crimes took place at Marketplace Mall in Henrietta.

Monroe Community College Shooting Range Schedule – Supervisor Anderson stated that the Rush Range schedule has been received and Secretary Valerie Mertsock will be updating the website.

Resident Correspondence – Supervisor Anderson read aloud letters from Residents Carol Barnett, Ted Barnett and Beth Hoak in support of Local Law #3 which includes rejecting drilling in Rush and changes being proposed in the Town of Rush zoning law.

VI. REPORTS OF OFFICERS AND COMMITTEES

Councilperson Riepe attended the Planning Board meeting, an Open House and lunch at the Industry School, emphasizing the agricultural and environmental work being schooled. Councilperson Riepe also attended the Pavilion Dedication in honor of William Udicious, past Supervisor.

Councilperson Steiner reported that she attended the Industry School Open House and was educated on the work being done in order to ready children to survive in society and employment. Councilperson Steiner attended the Pavilion dedication in honor of William Udicious, past Supervisor.

Supervisor Anderson stated that he also attended the Open House at Industry. Currently, there are about 40 residents and they hope to increase occupancy to approximately 100 students. Much work is being done to revive the trade skills and grass roots agriculture including fish cultivation and hydroponics. Academics are now not the sole education being taught. The programs are based on donations. Approximately \$11Million has been used to upgrade the infrastructure including water, power and fencing. The industry campus cottages are currently being renovated. The maximum security prison located at the Oatka facility is now closed.

Councilperson Frank was also in attendance at the School of Industry and tour provided. The tour provided information on what the programs encompassed. Councilwoman Frank also attended the Pavilion Dedication.

Councilperson Woolaver had no report.

Highway Superintendent Mark David had no report.

Attorney John Mancuso had no report.

RESOLUTION #127-2013

Supervisor Anderson moved to close the regular meeting in order to conduct the public hearing of Local Law #3 at 7:15 PM. Councilperson Steiner seconded the motion.

Roll:

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

Deputy Town Clerk Meribeth Palmer read the legal notice in its entirety and stated that it was published in both the Henrietta Post and The Sentinel as required by Town Law as well as the town website and the Town Clerk bulletin board.

**TOWN OF RUSH
LOCAL LAW NO. 3 OF THE YEAR 2013
A LOCAL LAW TO AMEND AND SUPPLEMENT
THE ZONING LAW OF THE TOWN OF RUSH ADOPTED JUNE 12, 1973**

PLEASE TAKE NOTICE, a public hearing will be held by the Rush Town Board, at the Rush Town Hall, 5977 East Henrietta Road, Rush, New York, on the **28th day of August at 7:15 PM**, local time, for the purpose of amendment and supplementing the Zoning Law of the Town of Rush adopted June 12, 1973, as heretofore amended by Establishing a Severability Clause; Confirming and Clarifying that any Uses not Expressly Permitted are Prohibited; Articulating Certain Explicitly Prohibited Uses; Adding Certain New Definitions, and Changing Certain Existing Definitions; and Modifying, Clarifying, and Adding to the Provisions Regarding Variances.

Copies of the proposed Local Law **#3 of 2013** are available for inspection at the Town Clerk's Office during normal business hours.

At such hearing any person may be heard in favor of or against the revisions to the Rush Town Code as proposed at the above time and date.

July 24, 2013 By Order of the Rush Town Board

Supervisor Anderson added that Town Clerk Bucci filed the 239m as required by Monroe County Planning and Development. It was referred to the Development Review Committee who commented that nothing additional was required on the part of the Town of Rush.

Supervisor Anderson opened the floor to public comment on Local Law #3.

Resident Selden Chase submitted a list of concerns including that the law was strictly written and enforcement will be difficult. Agriculture is very important in Rush and the law pertaining to agriculture is unclear. Litigation of agriculture disputes is expensive. Mr. Chase also quoted excerpts from the NYS Agricultural and Markets Law and NYS Department of Conservation and is not in favor of passing Local Law 3 of 2013 until agriculture is exempt.

Attorney Charles Steinman referenced the law pertaining to gas exploration and Rush Town Code 120-7A (4) which states that customary farming activities are

allowable in both R20 and R30 districts. In addition, current farmers are grandfathered and Local Law #3 of 2013 does not change customary farming.

Resident Selden Chase also stated concern regarding wells and well digging.

Attorney Steinman stated that the proposed Local law #3 is regarding injection drilling, well drilling for water is an allowable use under 120-7A Subsection 5 of the Rush Town Code.

With no further comment, Supervisor Anderson declared the Public Hearing on Local Law #3 of 2013 closed at 7:35 p.m.

Supervisor Anderson stated being that comments including Monroe County's 239m reply and written comments have been received and reviewed, a vote is in order. Supervisor Anderson read Local Law #3 below in its entirety.

RESOLUTION #128-2013

THE TOWN BOARD OF THE TOWN OF RUSH ADOPTING LOCAL LAW NO. 3 OF 2013

WHEREAS, the Town Board for the Town of Rush has determined that it is in the interests of the Town of Rush that the current Zoning Law be amended to articulate certain expressly prohibited uses and to confirm and clarify that any uses not expressly permitted are prohibited; and

WHEREAS, a public hearing on the proposed local law was conducted by the Town Board of the Town of Rush on August 28, 2013, wherein the public was provided an opportunity to submit comments on the proposed legislation; and

WHEREAS, a Long Environment Assessment Form has been prepared by the Town in compliance with Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA") and sent to all interested and involved agencies for review and comment and/or objection; and

WHEREAS, no comments or objections to the Long Environmental Assessment Form have been interposed by the aforementioned agencies; and

WHEREAS, on July 25, 2013, the Board referred the proposed local law to the Monroe County Department of Planning and Development pursuant to section 239-m of the New York General Municipal Law; and

WHEREAS, on August 26, 2013, the Monroe County Department of Planning and Development responded that it had no comments on the proposed local law; and

NOW, THEREFORE BE IT RESOLVED that this Board declare itself Lead Agency for purposes of conducting an coordinated review of the proposed local law and making any necessary determinations of environmental significance under SEQRA; and

BE IT FURTHER RESOLVED that this Board classifies the action as a Type 1 action subject to a coordinated review under 6 N.Y.C.R.R. § 617.6; and

BE IT FURTHER RESOLVED that the Town Board finds that the action will not include a significant potential environmental impact, and thus issues a negative declaration under SEQRA; and

BE IT FURTHER RESOLVED that Local Law No. 3 of the year 2013, a copy of which is attached and incorporated hereto, is hereby enacted to amend and supplement the Zoning Law of the Town of Rush;

BE IT FURTHER RESOLVED that said resolution and local law shall take effect immediately upon its filing in the Office of the Secretary of State in accordance with Section 27 of the New York Municipal Home Rule Law; and

BE IT FURTHER RESOLVED that notice of this Resolution shall be filed and circulated to the extent required by any applicable provision of the Code of the Town of Rush and/or any relevant statute or regulation.

The adoption of the foregoing Resolution was moved by Councilperson Woolaver seconded by Councilperson Steiner, and duly put to vote, which resulted as follows:

Roll:

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

VII. OLD BUSINESS

A Hydrofracking Update – Supervisor Anderson announced that Local Law #3 was adopted.

VIII: NEW BUSINESS

A. Resolution for 149 Work Permit- Work Within Right of Way (ROW) – Highway Superintendent Mark David requests work within the ROW to include installation of utility poles on Kavanaugh Road in order to carry fiberoptics to a communication tower located on Stonybrook Road. Work will be done for Monroe County who owns the tower. Nine additional utility poles will be installed on Phelps Road between Works Road and Keyes Road. Highway Superintendent David has sent letters to residents requesting their consent to

install utility poles, however, they are opposed to having poles installed and prefer buried cable. Currently, utility poles do not exist on Phelps Road.

RESOLUTION #129-2013

Supervisor Anderson moved to authorize Highway Superintendent David Supervisor sign a 149 Work Permit to work within the ROW and install poles for the installation to carry fiberoptic cable on Kavanaugh Road. Councilperson Riepe seconded the motion.

Roll:

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

B. Resolution to Loan Backhoe to Rush Fire Department under § 142-b (3) of New York State Highway Law – Highway Superintendent Mark David stated that under Highway Law §142-b(3) a fire district or school district, with agreed upon terms and conditions, may use town highway machinery. The Fire District has requested the use of the Town Highway backhoe in order to scoop millings and upgrade parking area for a certain number of hours in order to complete the job.

RESOLUTION #130-2013

Councilperson Steiner moved, with terms and conditions agreed to by Highway Superintendent Mark David, to loan a Town of Rush backhoe to the Rush Fire District for a certain number of hours in order to complete a job on Fire District property located at 1971 Rush Mendon Road, Rush, New York. Councilperson Frank seconded the motion.

Roll:

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

C Support of Veterans Memorial Highway – Supervisor Anderson stated that Monroe County would like to dedicate New York State Highway 15A as “Veterans Memorial Highway” as it runs through the area towns. Route 15A designated name will not be changed but an additional designation will be posted as the named highway. Both Henrietta and Mendon have already named the route.

RESOLUTION #131-2013

Councilperson Steiner moved to adopt and support the following:

WHEREAS, THE Town of Rush wishes to recognize the Veterans who served our Country, and

WHEREAS, the Rush Town Board supports dedication of the Rush portion of New York State Route 15A as a Veterans memorial Highway as a fitting tribute to their service.

NOW, THEREFORE, BE IT RESOLVED, that the Rush Town Board supports the dedication of the Rush portion of New York state Route 15 A as a Veterans Memorial Highway and authorizes the Rush Supervisor to communicate this support to the appropriate parties. Councilperson Woolaver seconded the motion.

Roll:

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

D. Request for Rezoning – Supervisor Anderson requested Deputy Town Clerk Palmer, as Secretary to the Zoning Board of Appeals to present an application received and referred to the Town Board. The Town Board members have been provided a formal request for rezoning by Rush Associates, LLC, a/k/a Rick Dorschel for review. Both the Planning Board and Zoning Board Appeals will be meeting respectively on September 12th and September 17th. Comments from those Boards are to be submitted to the Supervisor for consideration of rezoning.

IX. OPEN FORUM –

The floor opened to anyone wishing to address the Town Board. Comments were not received.

X. ADJOURNMENT

There being no further business, the meeting was adjourned by Supervisor Anderson at 7:40 PM and approved by common consent of all councilpersons present.

Respectively submitted,

Meribeth Palmer
Deputy Town Clerk