

RUSH TOWN BOARD  
Minutes of March 25, 2015

A regular meeting of the Rush Town Board, County of Monroe, was called to order by Supervisor Cathleen Frank at 7:00 PM on March 25, 2015, at the Rush Town Hall, 5977 East Henrietta Road, Rush, New York. Everyone present participated in the Pledge of Allegiance.

PRESENT:	Cathleen Frank	-----	Supervisor
	Daniel Woolaver	-----	Councilperson
	Kathryn Steiner	-----	Councilperson
	Rita McCarthy	-----	Councilperson, Deputy Town Supervisor
	Jillian Moore	-----	Councilperson
	Pamela Bucci	-----	Town Clerk
	John Mancuso, Esq.	-----	Town Attorney

OTHERS PRESENT:

Cecil Palmer	Resident
Kathryn Hankins	Resident
Carolee Powers	Resident
Robert Powers	Resident
Harvey Seymour	Resident
Joan Starkweather	Resident
Marianne Rizzo	Resident
Carol Barnett	Resident
Lee Hetrick	Resident
Mark David	Resident, Highway Superintendent

I. OPEN FORUM

Supervisor Frank opened the floor to anyone wishing to address the Town Board. All those speaking were asked to state their name and address for record keeping purposes.

Resident Carol Barnett asked if Computel would be paid for their utility audit.

Supervisor Frank answered that Computel will be paid a percentage if they have positive findings. Other auditing companies were reviewed, one being a 50/50. Supervisor Frank chose the 60/40 split.

II. APPROVAL OF MINUTES

**RESOLUTION #86-2015**

Councilperson Steiner moved to approve the Meeting Minutes of March 11, 2015, as amended by Town Clerk Pamela Bucci. Councilperson Woolaver seconded the motion.

Roll:

Councilperson Woolaver	aye
Councilperson Steiner	aye
Councilperson McCarthy	aye

Councilperson Moore                    aye  
Supervisor Frank                        aye.    carried.

III. APPROVAL OF ABSTRACT

**RESOLUTION #87-2015**

Councilperson Steiner moved after having audited all the claims against the funds listed on Abstract dated March 11, 2015 for vouchers #298 through #359 be allowed for payment in the amount of \$51,597.97. Councilperson McCarthy seconded the motion.

Roll:

Councilperson Woolaver                aye  
Councilperson Steiner                    aye  
Councilperson McCarthy                aye  
Councilperson Moore                    aye  
Supervisor Frank                        aye.    carried.

IV. REPORTS OF OFFICERS AND COMMITTEES

Councilperson Woolaver offered the following report:

- Zoning Citizen's Committee met and has requesting arranging a meeting with the Agricultural Advisory Committee on April 30<sup>th</sup> to discuss zoning concerns related to agricultural.

Councilperson Steiner offered the following report:

- Recreational Agricultural Use Citizen's Committee met, discussed their presentation to the Town Board and has questions regarding funds for the purchase of signs on the property and naming the property. Prices for the signs were discussed.

Supervisor Frank stated that a sign design and quote is required prior to Town Board approval.

Attorney Mancuso stated that it is at the discretion of the Town Board in naming a property. He did not believe there is a legal process; the property has been referred to as the BOCES property, however, confirmation of any procedure will be provided.

Discussion continued amongst the Board regarding naming the property.

Town Clerk Bucci stated that in years past the Town Board gathered suggestions in naming Hart's Field and then cast a vote. The Recreation Supervisor may have knowledge of specific guideline in naming the property and the citizen committee itself may have gone over any requirements.

Councilperson McCarthy had no report.

Councilperson Moore offered the following report:

- As liaison, attended the Fire Commissioners meeting.

- As liaison, attended the Planning Board meeting where applications for a special permit for a Temple on East River Road and an application for Subdivision on Kavanaugh Road were presented. There was a large turn-out for the meeting.

Town Clerk Bucci offered the following report:

- Public Hearing on the proposed amendment the Town Code Road Dedication Policy will be held on April 8, 2015, as an approved alternate date.
- Taxes collected to date amount to \$4,037,594.
- General Code, who codifies the Town Code was invited to do a training session on the eCode360 which is the Town Code located on Rush's website. Many board members and employees attended.
- Application date for Letters of Interest for the Zoning Board of Appeals positions has passed with no new applications. In lieu of this fact and that there is no April meeting, Zoning Chairman Corbin would be agreeable if the Board wished to continue advertising.
- Request for 30 Day Waiver – Robert Heil, Liquor License Consultant has requested that the Town provide a 30-day Waiver in filing the J DEY INC d/b/a, NASHVILLE'S WEDDING BARN located at 7272 W HENRIETTA ROAD, RUSH NY for an on premises liquor license application to the Town Clerk.

All liquor license applicants file their application with the Town Clerk and in this case, they are requesting the Town's approval of a 30-day waiver in order to expedite the process. Property violations or lack of permits are not a determining factor of the Town Board in delaying the process, however, in order for a liquor license to be issued, a Certificate of Occupancy (CofO) accompany their request. In this case, the Rush Code Enforcement Officer has issued a one-day CofO for this property. Town Clerk Bucci noted that in the past, 30-day waivers have been approved for other businesses. If approved, a letter will be sent to the Alcohol Beverage Control (ABC) Board.

#### **RESOLUTION #88-2015**

Councilperson Steiner moved to allow the Town Clerk to publish an additional advertisement for the open Zoning Board of Appeals position. Councilperson Woolaver seconded the motion.

Roll:

Councilperson Woolaver	aye
Councilperson Steiner	aye
Councilperson McCarthy	aye
Councilperson Moore	aye
Supervisor Frank	aye. carried.

#### **RESOLUTION #89-2015**

Councilperson Steiner moved to approve a 30-day waiver for J DEY INC d/b/a, NASHVILLE'S WEDDING BARN located at 7272 W HENRIETTA ROAD, RUSH NY in order to expedite obtaining a New York State liquor license from the Alcohol Beverage Control Board. Councilperson McCarthy seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson Steiner	aye	
Councilperson McCarthy	aye	
Councilperson Moore	aye	
Supervisor Frank	aye.	carried.

Code Enforcement Officer Gerry Kusse had no report.

Highway Superintendent Mark David announced a town-wide brush pick-up tentatively commencing April 20<sup>th</sup> beginning on the west side of town.

Attorney John Mancuso offered the following report:

- With respect to Resident David Sluberski's question from the March 11 Town Board meeting, in regard to the real estate sign posted on the Hansen property located on West Henrietta Road, the Town Code has been reviewed. Real estate signs are exempt from the town's sign ordinance both by dimension and compliance. The Town can take no enforcement measures, it is private property and up to the property owner as to how it is marketed.
- With respect to the Rush Associates application, a voice message has been received by the town attorney from the developer's engineer regarding the SEQRA process (environmental quality review). Last year the Town Board issued a positive declaration which requires a few additional items to be submitted and the developer to supply what is called a "scoping" document. The scoping document will provide for the outstanding issues that must be met in order for the Town Board to move forward. The Town attorneys will be contacting the applicant's engineers requesting that both town and developer engineer consult on items that were identified by the town.

#### V. OLD BUSINESS

A. Town Clerk Audit - Both Supervisor Frank and Councilperson Steiner have begun the Town Clerk's Audit which will be finished this week.

B. Renewable Energy Advisory Committee Liaison - Supervisor Frank appointed Councilperson McCarthy as Liaison to the Renewable Energy Advisory Committee.

C. Municipal Energy Program - Supervisor Frank spoke previously of the municipal energy program being offered by the Association of Towns and the Town has been accepted into the program. Electric supply cost will decline by 14% and the Gas supply cost will decline by 6%. The supply is provided by ProStar. An authorization to sign the contract was requested.

#### **RESOLUTION #90-2015**

Councilperson Steiner moved to authorize the Supervisor to enter into a 2-year contract with Prostar in order to reduce town offices supply costs of electricity and gas. Councilperson Moore seconded the motion.

Roll:

Councilperson Woolaver	aye
Councilperson Steiner	aye
Councilperson McCarthy	aye
Councilperson Moore	aye
Supervisor Frank	aye. carried.

C. Solar Proposal Update – Supervisor Frank spoke on the solar proposal. There are three areas that raise question and concern on whether or not this is the right fit at the right time for the Town of Rush.

(1) Technology – Twenty years ago, a mainframe computer was present. Satellite television was available with a huge saucer sitting in a person's yard or on top of a building. Today's technology uses a small dish positions on buildings. There are also hand-held devices such as small tablets, iPads, cell phones and similar devices that do a number of tasks without taking up much space and at prices that all can afford. The technology of today's solar panel and the Larsen Engineering proposal encompasses 2 acres of land. Hardware is reducing in size and increasing in capability which expedites its functionality. At the 20 year point when the Town can actually benefit from the solar energy, the technology may be out of date.

(2) The Second area of concern is who will benefit. In the onset, the investors, contractor, and engineers will benefit. This Larsen Engineering proposal is not one that the Town sought but one that presented itself.

(3) Thirdly, when do the financial contributions and rewards of the project appear. At first the Town may save a penny or two per kilowatt hour depending on the proposals that come back from the Request for Proposal (RFP). The Town is now engaging in a true savings at no risk for electricity and gas for at least a 2 year period of 14% electricity and 6% gas. The main savings in Larsen's solar proposal is in the 20<sup>th</sup> to 30<sup>th</sup> year. There are too many unknowns to commit to the timeframe with the current hardware. There may be other innovative solutions to alternative renewable energy in the next few years.

There are no other towns in Monroe County currently adopting a solar energy initiative. Larsen Engineering provided examples of larger towns that are engaging in the solar panels, however, they have many more municipal operations for public works reaping the benefits of energy versus paying electrical bills. There may be devices in the future that not only supply energy but store energy that can be used at peak time.

Supervisor Frank stated that the Sunshine Camp located on Five Points Road has solar panels which are used solely to generate electricity to heat their pool during summer months. Their investment provides immediate return instead of paying thousands of dollars a month to heat the pool.

Councilperson McCarthy added that the Renewable Energy Advisory Committee will be able to broaden their scope in looking at more viable options for municipality energy.

Supervisor Frank requested that the Town Board re-examine the solar proposal and provide comments at the next meeting.

VI. NEW BUSINESS

A. None.

VII. OPEN FORUM

Supervisor Frank opened the floor to anyone wishing to address the Town Board.

Resident Kathryn Hankins, on behalf of RACC, is interested in using the name Rush Genesee River Preserve as a place holder for the former BOCES property. The Citizen Committee would like to move forward engaging in different groups and town departments to obtain their visions and ideas in uses of the former BOCES property and the Division of Youth property. Naming the property provides a clear identity once guided tours of the trails are scheduled. Mrs. Hankins believes that \$10,000 in the 2015 budget was approved as well as the signs for the property. A local person has been selected to make the signs on recycled materials and a strong message of what is going on at the property needs to take place. RACC Member Phil Daggar has all of the sign information for the Supervisor's approval.

Resident Kathryn Hankins has heard from other towns (Penfield) that when advisory committees are formed, they are open to the public and they are not covered under the Open Meetings Law. There is no such thing as a closed meeting law. A level of government transparency will occur if all public are invited to citizen advisory committee meetings.

Attorney John Mancuso stated that it is under the Town Board's discretion whether or not a citizen's advisory committee meeting is open or closed to the public. Clarification of the Town Board's discretion on opening a citizen advisory committee meeting to the public will be provided to the Board.

Resident Kathryn Hankins stated that if the applicant for the Dorschel property does not come forward in a timely fashion with a scoping document, under the State Environmental Quality Review Act (SEQRA) the Town can do the scoping and charge the applicant for fees incurred. The Department of Transportation has highlighted the area as dangerous. A different SEQRA should be done. In previous Rush rezoning matters, the Planning Board has been the deciding Board and has far more experience than the Town Board. Mrs. Hankins questioned why the Town Board was making the rezoning decision.

Attorney John Mancuso answered that rezoning property is a legislative act and the Town Board has the only authority in which to do so. Typically, the Board with the most authority is the Board determined to be the lead agency. The Planning Board is an involved agency and has the authority to approve or deny a site plan. They were part of the SEQRA process. A positive declaration has been submitted and the Planning Board has an opportunity to provide comments to the Town Board.

Resident Kathryn Hankins also read that residents can be involved in the scoping.

Mancuso stated that SEQRA does provide the option of the lead agency determining the range of public participation in the scoping process. A public hearing is not required by SEQRA, however, public involvement is permissible. The Town Board could set a public comment period by which the public could review and comment on the scoping document.

Resident Marianne Rizzo stated that the Town should research carefully before it makes decisions on the former BOCES property. She supports looking at additional solar use projects for the Town.

Supervisor Frank spoke that because the property is not yet named, the specific signs should be more generic stating Town of Rush.

Mr. Powers requested a copy of the proposed Larsen report be provided to the members of the Renewable Energy Advisory Committee.

Supervisor Frank stated that the information is proprietary and if the Board decided not to continue the project, it is circumstantial. The presentation made by Larsen encompassed what is included in their report.

Attorney John Mancuso stated that the Renewable Energy Advisory Committee serves the Town Board and, ultimately, it is the Town Board's preliminary decision on how far to proceed in the process.

Resident Carolee Powers, as a member of the Renewable Energy Advisory Committee, wished to have a copy of stated that she was uncertain of the beneficial information that may be included in the Larsen because she didn't have a copy of the proposal from Larsen Engineering includes beneficial information that could be used as a starting point. She also questioned if NYSERDA did an audit on the Town Hall building. Germany is using solar technology. Unites States has an outdated solar technology system.

Councilperson Woolaver agreed with Supervisor Frank that if the Town decides to move forward, they may share the proposal with the Renewable Energy Advisory Committee, utilizing it as a starting point.

Supervisor Frank stated that she believed an audit by NYSERDA was conducted a short time ago.

Supervisor Frank clarified her concern with the solar proposal. The Larsen Engineering proposal had no immediate benefit for the town. The immediate benefit was to the investors, engineers and contractors. The Town, under recommendation by residents, requested a Renewable Energy Advisory Committee. Larsen has laid out a request for proposal (RFP) based on a specific model, having the Town opt into a program which

would save a penny or two on electricity each year. In years 20 to 30 years, the town would be able to keep the electricity and use it. The presentation made to the public by Larsen Engineers covered their utility findings thus far.

Resident Kathryn Hankins stated that she had the Larsen Engineering presentation on her personal laptop.

Supervisor Cathleen Frank noted that a NYSEDA audit provides alternative ways to better conserve energy. The Larsen proposal is a solar energy generation of electricity for credit. The Town could and should engage in obtain and looking at a number of solar options. The Renewable Energy Citizens Committee can provide the options.

Resident Carol Barnett stated that she was confused whether the town approached Larsen Engineering or they approached the Town.

Supervisor Frank stated that Larsen Engineering has worked on a number of town projects and the discussion may have presented itself. It is believed that the Town did not ask Larsen Engineers to provide a solar proposal.

There was a roundabout discussion in the audience of who may have been contacted about a solar proposal and when it commenced.

Resident Marianne Rizzo asked for additional information of the outcome at the Planning Board meeting regarding the Temple on East River Road.

Councilperson Moore stated that the Planning Board approved a special permit of the new temple, however, it was discovered that a special permit was approved years prior. The new Temple will alleviate outdoor spillage. The Temple will accommodate all persons inside.

#### VIII. ADJOURNMENT

There being no further business to conduct, the meeting was adjourned by Supervisor Frank at 7:50 PM and approved by common consent of all councilpersons present.

Respectively submitted,

Pamela J. Bucci  
Town Clerk