

RUSH TOWN BOARD  
Minutes of April 22, 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 April 22, 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
	Jillian Moore	-----	Councilperson
	Rita McCarthy	-----	Councilperson, Deputy Town Supervisor
	Pamela Bucci	-----	Town Clerk
	John Mancuso, Esq.	-----	Town Attorney

OTHERS PRESENT:

Mark David	Resident, Highway Superintendent
Carol Barnett	Resident
Tim McCarthy	Resident
Gerry Kusse	Resident, Code Enforcement Officer
Marianne Rizzo	Resident
James Bucci	Resident

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.

No comment from the audience.

II. APPROVAL OF MINUTES

**RESOLUTION #98-2015**

Councilperson McCarthy moved to approve the Meeting Minutes of April 8, 2015, as written by Town Clerk Pamela Bucci. Councilperson Woolaver seconded the motion.

Roll:

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

III. APPROVAL OF ABSTRACT

**RESOLUTION #99-2015**

Councilperson Steiner moved Be It Resolved that having audited all the claims against the funds listed on Abstract of April 18, 2015 for vouchers #2015 401 through #2015 464 be allowed for payment in the amount of \$20,092.09. Councilperson McCarthy seconded the motion.

Roll:

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

IV. REPORT OF OFFICERS AND COMMITTEES: Monthly Report

Councilperson Woolaver offered the following report:

- As liaison, attended the Zoning Citizens Committee Meeting.

Councilperson Steiner offered the following report:

- As liaison, attended the Recreational Agricultural Citizens Committee meeting with invited guest Supervisor Frank. They discussed providing the Board a prioritized list of items to occur or be done on the property. A trail tour schedule is being assembled with the first tours beginning in June. More details will be provided when available.

Councilperson McCarthy offered the following report:

- No report.

Councilperson Moore offered the following report:

- As liaison, attended the Fire Commissioners meeting as well as the Planning Board meeting where they approved 2 subdivisions; Search Hill Subdivision property on West Henrietta Road and the John David Subdivision on Rush West Rush Road. The Agricultural Advisory Committee attended the meeting to explain their role and expertise.

Town Clerk Bucci offered the following report:

- Town Clerk Monthly report was submitted to the Supervisor accompanied by a check in the amount of \$11,774.47; revenue mostly attributed to the afterschool program and pavilion rentals.
- Two public meetings will be held on a proposed agreement between Rochester Gas & Electric and the Ginna Power Plant on recovering

operating costs associated with the continued operation of the Ginna operation. Meetings will be held on May 6<sup>th</sup> in the Town of Webster and May 7<sup>th</sup> at Rochester City Hall. A factsheet and notice is available.

Building Inspector/Code Enforcement Officer Kusse offered the following report:

- Visited and toured by motor today the former BOCES property at 6565 East River Road with Supervisor Frank and Recreation Supervisor Stephens.

Highway Superintendent David reported the following:

- The town-wide brush pick-up has begun.

John Mancuso, Esq., offered the following report:

- No report.

Supervisor Frank offered the following report:

- Feedback on Citizen Advisory Committees formed by the Town Board and the Open Meetings Law was presented courtesy of the town's attorneys and read aloud as follows:

"At a prior meeting of the Town Board, a question was raised concerning whether the citizen advisory committees created by the Town Board are open to the public or otherwise subject to the requirements of the Open Meetings Law. The law provides that a citizen advisory committee acting solely in an advisory capacity to the Town Board with no power to make final decisions on behalf of the Town are not subject to the requirements of the Open Meetings Law. With regards to the Town of Rush, the Town Board has not granted its citizen advisory committees with any power to take final and binding action on behalf of the Town. The advisory committees have been formed to review particular matters and provide advice to the Town Board. As a result, the citizen advisory committees in the Town of Rush are not subject to the Open Meetings Law and not open to the public."

- Attended the Recreational Agricultural Citizens Committee meeting. A porta-potty will be installed at 6565 East River Road costing \$100.00 a month for the public's use. It will be secured to a concrete pad and/or a building. Code Enforcement Officer ("CEO") Kusse has scheduled an electrical inspection for next week. When approved, the electricity will be activated. The bees have not returned. The 18 tires located by the ropes course were removed during the tour of the property by CEO Kusse, Supervisor Frank and Recreation Supervisor Stephens. Supervisor Frank will be obtaining roof repair quotes for the buildings. Recreation Supervisor Stephens met with Monroe County regarding the professional removal of possible lead paint in 3 buildings and the priming of those buildings

afterward. The School of Industry has been contacted to execute a painting project in non-lead paint areas.

V. OLD BUSINESS

A. Municipal Energy Program – Supervisor Frank previously discussed the program. Further review indicates that the Program would be less beneficial. A grid report was presented to the Town Board by Finance Director Reynolds based on use and what the program could provide. There is a great deal of fluctuation in rates. The Board will review the rates again in the next 6 or 12 months. The Program is open at any time. Supervisor Frank will not be signing a contract at this time.

B. Computel's Time Warner Cable Franchise Audit Report – Supervisor Frank explained 2 pieces of the audit. A claim will be filed to reclaim franchise fees. In 2009 Time Warner Cable ("TWC") excluded franchise fees collected from subscribers each month from the calculations of gross revenues. By doing that the town is owed \$4,074.26. Computel will file the claim on the town's behalf and it will be paid a 40/60 split, amounting to \$1,629.71. This correction will reflect positively in the town's collection of franchise fees in the future. The second piece of the audit will be the review of utilities.

The Town's contract with Time Warner Cable Franchise has expired as of 2011. The town will be entering into renegotiations. The Computel audit apprised the Town of laws previously providing revenues of a 3% subscriber fee, however, they now allow a return of 5%. The town currently is paid for subscriber services including installation. In the new contract, the town is asking that advertising and Home Shopping Network revenue to be included in the gross revenues.

Supervisor Frank stated that the more the town can diversify its revenue streams through the cell tower lease, cable franchise, leases of 6565 East River Road property, and like, the more revenue and less tax-payer contribution is needed.

**RESOLUTION #100-2015**

Councilperson McCarthy moved to authorize the Supervisor to enter into an agreement with Computel in order to proceed and file a claim for unpaid franchise fees with Time Warner Cable based upon the audit that was performed. Councilperson Woolaver seconded the motion.

Roll:

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

C. Road Dedication for Madelyn's Way – Supervisor Frank asked for an update from Attorney John Mancuso.

Attorney Mancuso stated that the Town Board passed a Local Law that will amend the Town Code and provide more flexibility in road dedication in the Town of Rush. Previously a variance was required of Jim Dys, developer of Madelyn's Way, in order to dedicate the road. Conforming to the design standards which were recently adopted will be necessary. The road must be to the satisfactory of the Rush Highway Superintendent and the Town Supervisor. If the road is built to satisfaction of the town, the town can accept road dedication. A letter from the town attorneys will be sent to Mr. Dys requesting that he consult the highway superintendent to coordinate what outstanding work needs to be done on the road. Upon proper inspection and approval by the Highway Superintendent and the Town Supervisor, road dedication can occur prior to next winter.

#### VI. NEW BUSINESS

A. ADP Payroll Services Discounted Rate – Supervisor Frank stated that ADP Payroll Services provides payroll services to the town. Finance Director Don Reynolds is very impressed with their services and has filled out a customer satisfaction survey which gained the town a reduced rate. ADP Payroll was appreciative of the high rating given and provided Rush a reduced rate by 11.7%, with the signing of a 24 month contract. The contract also agreed upon no increase in 2015 and only a 2% increase in 2016.

#### **RESOLUTION #101-2015**

Councilperson Steiner moved to authorize Supervisor Frank to enter into a 24 month contract with ADP Payroll Services to provide payroll services to the Town of Rush. Councilperson Woolaver seconded the motion.

Roll:

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

#### VII. OPEN FORUM

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

Resident Carol Barnett asked for clarification of the TWC franchise fees.

Supervisor Frank replied that the town must have an agreement with TWC in allowing TWC to use the cable lines that run through Rush. TWC pays the town a franchise fee for exclusive right to provide service to resident users.

VIII. EXECUTIVE SESSION

Supervisor Frank made a motion to adjourn to executive session at 7:21 PM to discuss an attorney client privilege matter.

On the motion of Supervisor Frank, the meeting was returned to regular session at 7:34 PM.

IX. ADJOURNMENT

There being no further business to conduct, the meeting was adjourned by Supervisor Frank at 7:35 PM and approved by common consent of all councilpersons present.

Respectively submitted,

Pamela J. Bucci  
Town Clerk