

TOWN BOARD  
April 27, 2016

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 27, 2016 at the Rush Town Hall, 5977 East Henrietta Road, Rush, New York. Everyone present participated in the Pledge of Allegiance.

PRESENT:	Cathleen Frank	-----	Supervisor
	Rita McCarthy	-----	Councilperson, Deputy Town Supervisor
	Jillian Coffey	-----	Councilperson
	Daniel Woolaver	-----	Councilperson
	Gerald Kusse	-----	Councilperson
	Pamela Bucci	-----	Town Clerk
	John Mancuso, Esq.	-----	Attorney for the Town

EXCUSED: Daniel Woolaver ----- Councilperson

OTHERS PRESENT:

Residents:

Carol Barnett	David & Kirsten Flass	Kathryn Hankins
Donald Scheg	Don Sweet	Christine Sheffer
Jim Sheffer	Joan Starkweather	Harvey Seymour
Ted Strang	Beth Hoak	Dick & Mary Knapp
Marianne Rizzo	Linda Repka	Janet Chaize
Jim Chaize	Al Sweet	Jack Mould
Kyle Tracy	Lee Hankins	Hans Schmitthener
Julia Lederman	Jim Smith	Christopher Giordano
Dan Missel	Yong Bom Kim-Fredell	Philip T. Daggar
Cecil Palmer		
Mark David, Highway Superintendent		

Members of the Recreational Agricultural Citizen's Committee (RACC) and presenting at the meeting which are referenced above include: Marianne Rizzo, Ted Strang, Philip T. Daggar, Jim Smith, Cecil Palmer and Kathryn Hankins.

I. PUBLIC COMMENT

Supervisor Frank opened the floor by stating that misinformation is being circulated throughout the community creating a disservice. It is a waste of time, talent and energy of the Rush residents. Three examples were presented. (1) There is nothing in the Howlett proposal that is at the tax payer's expense. It is

the goal of the town board to maintain the Rush Riverside Refuge and keep it self-funding. (2) A forestry stewardship report received from the NYSDEC dated April 2012 states that there are areas on the property that are overstocked and maintenance is needed for the long-term benefit of the woodlots. The DEC forester will be invited to discuss issues with the Town Board before any decisions are made. (3) We will not pay to harvest any timber in the agricultural fields between the triangle of Route 251, Genesee River and the railroad tracks.

The Supervisor is available to discuss any town issues within her jurisdiction and welcomed residents to contact her.

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

Resident Carol Barnett asked if the Howlett proposal would be voted on at this meeting.

Resident Hans Schmitthener asked if members of the citizen committees are published. It would be helpful to know who they are and their backgrounds.

## II. APPROVAL OF MINUTES

### **RESOLUTION #102-2016**

Councilperson Coffey moved to approve the April 13, 2016 Town Board Meeting Minutes as written by Town Clerk Bucci. Councilperson Kusse seconded the motion.

Roll:	Councilperson McCarthy	aye	
	Councilperson Coffey	aye	
	Councilperson Kusse	aye	
	Supervisor Frank	aye	carried.

## III. TRANSFER OF FUND

There was no transfer of funds.

## IV. APPROVAL OF ABSTRACT

### **RESOLUTION #103-2016**

Councilperson Coffey moved, having audited all the claims against the funds listed on Abstract of April 27, 2016 for vouchers 2016 #385 through #453, that they be allowed for payment in the amount of \$55,337.32. Councilperson McCarthy seconded the motion.

Roll:	Councilperson McCarthy	aye	
	Councilperson Coffey	aye	

Councilperson Kusse                      aye  
Supervisor Frank                            aye                      carried.

V. REPORTS OF OFFICERS AND COMMITTEES

Councilperson McCarthy offered the following:

- As liaison, attended the Library Board of Directors. They continue to work on library long-range plan. As required, Library Director Flass has submitted the NYS report.

Councilperson Coffey offered the following:

- As liaison, attended the Fire Commissioners meeting and Planning Board meeting.

Councilperson Kusse offered the following:

- As liaison, attended the Rush Riverside Refuge Citizen's Committee meeting.

Highway Superintendent David offered the following:

- Crew is in day three of town-wide brush pick-up.

Town Attorney offered the following:

- No report.

Town Clerk Bucci offered the following:

- No report.

Supervisor Frank offered the following:

- County Executive Cheryl DiNolfo has confirmed Rush's award from Monroe County Community Development Block Grant in the amount of \$5,876.00 for ADA compliant doors in the interior library entrance and interior connection from the court hallway to the first floor back entrance.

**PRESENTATION:** Supervisor Frank offered the floor to the Recreational Agricultural Citizen's Committee (RACC) Powerpoint final presentation to the Town Board.

Kathryn Hankins introduced the committee members as Marianne Rizzo, Ted Strang, Philip Dagger, Jim Smith, Cecil Palmer and herself. All members contributed to the powerpoint slides and spoke during the presentation. The 42 page Highlights of the Final Report will be available on the Town website and consist of committee's values, results of authorized expansion of committee activities, desired outcomes, natural and developed landscape areas, description of the parcels including maps, suggestions, designate property as a park, establish a natural habitat preserve, preserve and restore natural forest

areas, protect former Department of Family Youth, established a trail system including signage, development of trailhead information centers, provide simple picnic shelters, strengthen the partnership with NY Transportation Museum and Railroad Museum, suggestions of passive recreation activities, suggestions for active recreation activities suggestion for agriculture-recreation uses, plant trees to border, buffer and beautify fields, suggestions for uses of the former BOCES buildings, alternatives to commercial farm lease income and suggestions to transition to action plans.

Kathryn Hankins stated that Supervisor Frank met with the RACC and suggested a matrix be created for areas of the property. The legal issue of what the property is to be used as well as the restrictions continues to be unclear to the committee. In the final report, the RACC will be recommending recruiting a new citizen's committee that has certain expertise. The land has unique features and history. Its legacy should carry on. Creating a natural habitat would be unique to Monroe County. The Genesee River puts Rush on the map. By May 11, a written report will be submitted to the Town Board. By May 25, the written report can be placed on the town website. Approval also has been given to allow a question and answer follow-up with the Town Board and that names of the committee members will be included on the town website.

These final reports were submitted based on a 2016/2017 schedule. The RACC may have misunderstood. Kathryn stated that it is their understanding from previous Supervisor Anderson that the leases would end in 2017 and the suggestions of the committee would become a reality. Additionally, there are deed issues that are not understood. Kathryn Hankins also stated that she had contacted the Office of General Services researching the deed uncertainties.

Supervisor Frank thanked the citizen's committee for their dedicated work over the years and asked for comments or questions from the Town Board.

Councilperson McCarthy thanked the RACC for creating the trail system and conducting tours, working on their presentations and time devoted to meeting. It is a privilege to continue the partnership with the New York State Railroad Museum. The Railroad Museum is a hidden gem without the town of Rush.

## **VI. OLD BUSINESS**

A. Status Update on Rush Associates, LLC re-zoning of 7262 West Henrietta Road, Rush – Supervisor Frank stated the FEIS (Final Environmental Impact Statement) has been submitted to the town engineer for his review and comments.

Attorney Mancuso added that once the FEIS is accepted by the Town Board, the SEQRA process begins and the Findings of rezoning the property are presented reviewed and considered on whether or not to rezone the parcel.

B. Howlett Proposal Continued Discussion – Supervisor Frank and the Town Board received a Proposed Farmland Improvement Project dated April 27, 2016. Bruce Howlett explained to the Board specifics within the proposal providing the scope and timeline all at no cost to the town. The farmland is the best in New York State. Property needs to be maintained. Commercial farmers do use pesticides, however, Howlett Farms strives to use the safest chemicals on the market for not only the land but the workers in the field. For our safety, many natural chemicals are used by the Howlett Farms. The proposal offers benefits of maximizing the land to a premium state and providing a constant revenue to residents for years to come.

Supervisor Frank asked if a walking path or trail along the river would be created. Mr. Howlett agreed.

Councilperson McCarthy stated that this proposal is similar to what was previously presented. The weed trees that are encroaching need to be removed for proper drainage. Your willingness to plant hardwood trees at no cost to the town is excellent.

Supervisor Frank asked for an additional explanation of tile. Bruce Howlett explained that laying tile acts as a filter to drain the water into a ditch bank. Soil saturation doesn't occur. Most crops can only withstand 48 hours in water before they die.

Supervisor Frank asked about educational opportunities. Bruce Howlett would promote through trees, river bank area, signs would be posted for agricultural non-entry because of growing crops. Before and after pictures in clearing and rejuvenating the land can also be displayed. The former School of Industry ground on the other side is cost-prohibitive to renovate.

Councilperson Kusse asked if there were publications on the effects of the chemicals being proposed to be used. NYSDEC training is followed when applying chemicals. Re-entry time of chemical spraying is reduced to 4 hours with the chemicals now used.

Attorney Mancuso stated that there is currently a lease of the property that must be terminated. The Board must consider its various phases. A review under the NYSEQRA as an unlisted action will take place. Also the Board will have an uncoordinated review in determining whether or not the actions will have a

significant environmental impact. The regulatory requirements will be reviewed to assure the procedural requirements are met which will include a short environmental assessment.

C. Zoning Citizens Committee Recommendations Update – Supervisor Frank asked for questions of the Board and review the attorney's comments. At the next meeting a final discussion will be take place.

Attorney Mancuso noted that once the Board decides to proceed with the proposed changes to the Town Code, a Local Law will be presented in a public hearing. If the proposals are adopted, the Code will be amended.

Supervisor Frank was presented additional amendments to the Town Code which include Chapter A125, Design Criteria and Construction Specifications, Attachment 1:14 Typical Road Section Site Development Detail should be amended from 2" asphalt binder course to 3" asphalt binder course. Chapter 110, Vehicles and Traffic, §110-7 Designation of Intersections requires updating to reflect changes since its last amending in 2002.

Highway Superintendent David will review that section of the Code for possible updates.

#### VII. **NEW BUSINESS:**

A Pipitone Enterprises, LLC Recommendation - Supervisor Frank received quotes regarding replacement of systems condensing units located in the William R. Udicious Pavilion.

Councilperson Kusse consulted with an expert and approves of the recommendations.

#### **RESOLUTION #104-2016**

Councilperson Coffey moved to authorize Supervisor Frank to enter into an agreement with Pipitone Enterprises, LLC, 25 East Buffalo Street, Churchville, New York 14428 to repair and replace amp compressor contactors on 6 condensing units located in the William R. Udicious Pavilion for an amount not to exceed \$2,500.00. Councilperson Kusse seconded the motion.

#### VIII. **PUBLIC COMMENT**

Resident Kathryn Hankins expressed concerns related to the reverter clause in connection with the former BOCES properties. Contact was made with both the Office of General Services and BOCES regarding additional research on the reverter clause and deeds. The Attorney General's Office is also open to speaking with the attorneys for the Town on the specific restrictions and uses of

the properties pursuant to the deeds. Thanked Bruce Howlett for recognizing commercial farming as it relates to green fields and blue lakes. The Farmland Plan should also be reviewed to coincide with any agreements made by the town.

Resident Marianne Rizzo commented that she believes that the former BOCES property was given to Rush for a legacy and requests that the Town Board not allow trees to be cut down and to keep the land as it currently exists. Resident Rizzo referred to a report done while Richard Anderson was Town Supervisor.

Resident Cecil Palmer commented on his knowledge of harmful chemicals that he wishes not be used in farming the town-owned land. Certain chemicals are harmful to bees and insects. Requests a moratorium on renewing leases until chemical concerns are addressed.

Resident Carol Barnett commented that the bottom line is that the land is designated for park and recreation, not commercial farming.

Resident Hans Schmitthener commented that he is in favor of farming and knows that farming chemicals today are much safer than years past. Legal rights of the parcels have to be clear. A moratorium is a good idea but suggested that a compromise be made. The property in question is very small. Revenue from leasing the property will help maintain the property. Mr. Howlett is proposing to do a costly job at no cost to the town and one that will benefit the town financially for years to come. Would it be possible to connect property to the Lehigh Trail?

Supervisor Frank read aloud Attorney Pavia's statement in regards to the former Industry parcel that Howlett Farms currently farms. The town is to maintain and improve park and recreational benefits consistent with the stated conditions of the use of the former Industry property. The current uses are consistent with the former uses.

Resident Don Scheg commented that the land is very special. It is a spiritual peaceful place. Mr. Howlett approaches the land as a commodity. The presentation of the committee wants use as a resource not to be spoiled. Are those two uses non-compatible. If the property was both resource and commodity, would the best case practices be used. There may be a way to do both. Compromise on both sides may work best.

Resident Chris Giordano asked for clarification if the property is legally used for parks and recreation. Is it right to assume that tiles slow the flow to the river.

Attorney Mancuso reiterated the language stating that the 100 acre former Industry property is improved and maintained for park and recreational purposes. The former BOCES is recreational and ancillary uses. The definition of ancillary is within the discretion of the Board as the owner of the property. Since there is a point of confusion from this public meeting on the uses and differences in uses for these two parcels, Supervisor Frank will consult with the town attorneys for full clarification.

Resident Carol Sheffer believes it irresponsible for the Town Board to enter into additional contracts without full clarifications of the deeds, restrictions uses of land that has been gifted to the town.

Resident Janet Chaize commented that round-up can destroy nature.

Resident Kathryn Hankins commented that in her discussions with the Real Estate Department of Office of General Services as well as the Attorney General's Office, both said that they would be glad to counsel the town's attorneys. They also stated that farming is not a recreational use. Opinions regarding park land have been written regarding commercial farming. There are pros and cons to tiling and a moratorium should be considered.

At the town's discretion, Town Attorney Mancuso will contact those that Resident Kathryn Hankins spoke to at the Office of General Services and Attorney General's Office.

Resident Carolyn Powers commented that the land is beautiful and the Genesee River is also beautiful. There is a concern about the farming and run-off of pesticides and removal of trees on the banks.

Resident Hans Schmitthenner commented that tiles filter the water and the pesticides do not run into the river. A water purification effect is created with the tiles. Crops live and provide oxygen when tiles are used.

Resident Harvey Seymour stated that tiles, depending on the type, will not be filtered out with 2 ½ feet of soil.

#### IX. ADJOURNMENT

There being no further business to conduct, the meeting was adjourned by

TOWN OF RUSH  
April 27, 2016

Supervisor Frank at 9:12 PM. Meeting was adjourned by common consent.

Respectively submitted,

Pamela J. Bucci  
Town Clerk