

RUSH TOWN BOARD MINUTES
June 8, 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 June 8, 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
	Jillian Coffey	-----	Councilperson
	Daniel Woolaver	-----	Councilperson
	Gerald Kusse	-----	Councilperson
	Pamela Bucci	-----	Town Clerk
	John Mancuso, Esq.	-----	Attorney for the Town

RESIDENTS PRESENT:

Dick & Mary Knapp	-----	Residents
Dave Sluberski	-----	Resident
Frederic E. Calev	-----	Resident
Cecil Palmer	-----	Resident
Bill Gaffney	-----	Resident
Dick Andrews	-----	Resident
Kathryn Hankins	-----	Resident
Hans Schmitthenner	-----	Resident
Marianne Rizzo	-----	Resident
Dick Updaw	-----	Resident
Carolee & Bob Powers	-----	Residents
Robert Kraus	-----	Resident
Donald Scheg	-----	Resident
Carol Barnett	-----	Resident
David & Kirsten Flass	-----	Residents

EXCUSED: Rita McCarthy ----- Councilperson, Deputy Town Supervisor

Councilperson McCarthy is on vacation out of the country.

I. PUBLIC COMMENT

Supervisor Frank opened the floor inviting 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 Fredric Calev voiced his continued extreme frustration and concerns of the Stonewood & Waters and Lehigh Valley Outpost, 2500 Rush Mendon Road,

Honeoye Falls businesses taking place on the neighboring residential parcel adjoining his property. It is his belief that there are violations on that property and wished for the status of the town investigation and enforcement.

Supervisor Frank stated that the Code Enforcement Officer Tracy and the attorneys for the town are currently working on the investigation and enforcement of any violations.

Resident Bill Gaffney stated his opinion of strong concerns relating to the treatment of the Town Board elected officials by a small group of residents in attendance at last month's Board meeting. The five members are elected officials and leaders of the community. They should be treated with respect; there should not be second guessing and negative criticism. It is arrogant and ridiculous. Those conducting themselves in a disrespectful manner should be ashamed. Town Board should not tolerate such treatment.

Resident Hans Schmitthenner noted that he had submitted a lengthy email to the Recreational Agricultural Citizens Committee and the Town Supervisor and wished it to become part of town record. The highlights of the email are that there was a turn of sentiment, a huge shift, of the RACC after the Howlett presentation to the Town Board. The RACC previously wished to partner with farming but now seem to strongly oppose of farming. Ancillary means in support of a project. Farming is very important and commercial farming is not bad. Hospitals are commercial businesses. The cost of maintaining the Rush Riverside Refuge will be substantial. Mr. Schmitthenner is in support of collecting funds through leases to support the property without calling upon the taxpayer. There should not be a fear of cutting down trees or using pesticides. Many farms in Rush and surrounding areas have been farming and using pesticides and herbicides for years. The Rush Riverside Refuge should not be held to an environmental halt.

Resident Carolee Powers stated that the Rush Riverside Refuge property borders the Genesee River. There is great concern that chemicals will leach into the river. The current farmer is approaching the 35' barrier of the riverbank. Soil and Water Conservation deems 100' as an allowable distance for farming close to a riverbank. The Rush Riverside Refuge should be viewed as parkland never to be disturbed. Wildlife should be able to flourish on the property.

Resident Hans Schmittenhener stated that during Mr. Howlett's presentation, he suggested widening the border and increasing the amount of good hardwoods, decreasing the run-off to the Genesee River in order to protect it.

Supervisor Frank stated that Resident Schmitthenner's email was forwarded to all Town Board members. Additionally, Supervisor Frank stated that the open comment period is not a public hearing.

II. APPROVAL OF MINUTES

Supervisor Frank stated that due to the length of the Town Board Minutes of May 25th and the transitioning of town email system, the Town Board had not received the Minutes until now. They will be reviewed and approved at the next meeting.

III. APPROVAL OF ABSTRACT

RESOLUTION #116-2016

Councilperson Woolaver moved that having audited all the claims against the funds listed on Abstract #11 of June 8, 2016 for vouchers 2016 #540 through #595 be allowed or payment in the amount of \$71,544.91. Councilperson Coffey seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson Coffey	aye	
Councilperson Kusse	aye	
Supervisor Frank	aye	carried.

IV. CORRESPONDENCE

Supervisor Frank noted the Genesee Valley Pennysaver highlighted a picture of the Rush Town Hall in its *Everyday Angels* ad emphasizing its newly installed shutters that were similar to those placed on the original building. Shutters were approved with the perseverance of a lifelong resident who secured architectural renderings that were presented and approved by the Town Board. The community thanks Town Resident Bill Gaffney for his continued efforts.

Resident Louise Harris sent a note to the Town Board thanking them for always enhancing the hamlet by decorating the Town Hall whether it be by adding shutters, displaying patriotic bunting, or placing candles in the windows.

Supervisor Frank received correspondence from the NYS Museum of Transportation who is requesting a permanent easement for the museum, land and building. A packet of information was distributed to the Board members and the town attorneys. The Board will discuss in a future meeting.

V. REPORTS OF OFFICERS AND COMMITTEES

Councilperson Woolaver offered the following:

- As liaison, attended the Zoning Board of Appeals special meeting. One application was voted upon favorably.

Councilperson Coffey offered the following:

- No report.

Councilperson Kusse offered the following:

- As liaison, attended the Conservation Board meeting. Assessor Dan Stanford provided an understanding of land with an agricultural assessment, subdivision and transfer to owner.

Town Clerk Bucci offered the following:

- Requested that Assessor Stanford provide information regarding his educational information to the Conservation Board so that they can be incorporated into the Conservation Board notes that are placed on the town website.
- A tax payment deposit was duplicated. Five Star Bank has contacted all banks associated with the 28 checks by letter. If there are duplicate payments being withdrawn from accounts, residents are asked to contact the Town Clerk immediately so that it can be resolved. All town and county taxes have been surrendered to Monroe County Treasury.

Supervisor Frank stated that Highway Superintendent David is out of town attending Highway School.

Attorney for the Town offered the following:

- No report.

Library Director Kirsten Flass offered the following:

- A committee continues to work on long-range planning.
- Summer reading program is being planned.

Supervisor Frank offered the following:

- The Rush Farmers Market will be held on Wednesdays at the Town Hall back parking lot beginning July 6th from 3:00-6:30 PM. Resident Jeff Werner will be assisting in finding vendors. Additional questions can be directed to Recreation Supervisor Pat Stephens.
- Received correspondence regarding the Hanson Honeoye Falls Quarry Expansion. Town Engineer Todd Ewell from CHA reviewed the proposal and submitted his recommendations and comments to the NYSDEC.

VI. OLD BUSINESS

A. Town Board feedback on the Renewable Energy Citizens' Committee (RECC) Final Report – Supervisor Frank requested feedback from the Town Board.

All members were in favor of waiting for Councilperson McCarthy's return before providing feedback to the RACC.

B. Status update on Rush Associates, LLC re-zoning of 7262 West Henrietta Road
- Supervisor Frank asked Attorney Mancuso for an update.

Attorney Mancuso stated that with the adoption of the Final Environmental Impact Statement, the 30 day clock began. The Town Board is then able to adopt the Finding Statement and to relate it to the underlying zoning. The Findings are being drafted. Given the tight timeframe, the attorneys have secured an extension of time with the applicant for an additional 30 days. With a resolution, the time will be extended to July 13, 2016, at the regularly scheduled Board meeting.

RESOLUTION #117-2016

SEQRA EXTENSION RESOLUTION

Councilperson Kusse moved WHEREAS, on November 13, 2013, the Town Board of the Town of Rush (the "Town Board") accepted an application from Rush Associates, LLC to rezone 5.8 acres of an approximately 25 acre parcel located at 7262 West Henrietta Road, Town of Rush from residential (R-30) to commercial (C) (the "Petition"); and

WHEREAS, the Petition is subject to an environmental impact assessment pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and its implementing regulations at 6 NYCRR Part 617 (collectively referred to as "SEQRA"); and

WHEREAS, on November 27, 2013 the Town Board declared itself Lead Agency in order to complete a coordinated review of the Petition pursuant to SEQRA; and

WHEREAS, on July 23, 2014, the Town Board issued a Positive Declaration for the Petition; and

WHEREAS, on January 13, 2016, the Town Board accepted a Draft Environmental Impact Statement ("DEIS") for the Petition; and

WHEREAS, both a thirty (30) day public comment period and public hearing were conducted for the DEIS; and

WHEREAS, on May 11, 2016, the Town Board accepted a Final Environmental Impact Statement ("FEIS") for the Petition.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN OF RUSH TOWN BOARD AS FOLLOWS:

Section 1. Pursuant to 6 NYCRR §§ 617.3(i) and 617.11(b), and on consent of Rush Associates, LLC, the Town Board determines that its time to file a written findings statement and decision on whether or not to fund or approve the Petition shall be extended to July 13, 2016.

Section 2. The Town Board further directs that notice of this resolution shall be filed and circulated to the extent required by any applicable ordinance, statute or regulation.

Section 3. This Resolution shall take effect immediately upon adoption. Councilperson Woolaver seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson Coffey	aye	
Councilperson Kusse	aye	
Supervisor Frank	aye	carried.

C. Status of Zoning Citizens Committee Recommendations – The Zoning Board of Appeals has one additional recommendation for review.

Attorney Mancuso stated that the Town Board had been directed to draft a Local Law to memorialize all the amendments to the Zoning Code. During the process the Zoning Board of Appeals has presented one additional recommendation. The Town Board and town attorneys are currently working with the Zoning Board of Appeals on the recommendation.

VII. NEW BUSINESS:

A. Resolution to Support Updaw property Purchase of Development Rights (PDR) – Supervisor Frank stated that a resolution has been presented to the Town Board and reviewed by the attorneys for the town.

RESOLUTION #118-2016

ENDORSEMENT OF A CONSERVATION EASEMENT FOR THE SUBMISSION OF AN APPLICATION FROM GENESEE LAND TRUST TO THE NYS DEPARTMENT OF AGRICULTURE AND MARKETS FOR FUNDING TO PURCHASE DEVELOPMENT RIGHTS ON RICHARD UPDAW'S PROPERTY.

Councilperson Coffey motioned, WHEREAS, the Town of Rush adopted an Agricultural and Farmland Protection Plan in July 2012;

WHEREAS, the Town received a request from Richard Updaw regarding submission of a NYS Farmland Protection Implementation Grant Round 14;

WHEREAS, the Updaw Property is identified in the Town of Rush Agricultural and Farmland Protection Plan as having "High Agricultural Potential/Viability";

WHEREAS, Richard Updaw and Genesee Land Trust agree the purpose of the agricultural conservation easement will be to perpetually conserve viable agricultural land by preventing the conversion of the Property for non-farm uses. In achieving such prevention the Property shall be forever reserved for continued Agricultural Use;

WHEREAS, the Genesee Land Trust Board of Directors will apply on behalf of Richard Updaw;

NOW, THEREFORE BE IT RESOLVED, that the Town of Rush Town Board passed a resolution on June 8, 2016 at a regular Town Board meeting to endorse the submission of an application from Genesee Land Trust to the New York State Department of Agriculture and Markets for funding to Purchase Development Rights on the Updaw Property. Councilperson Kusse seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson Coffey	aye	
Councilperson Kusse	aye	
Supervisor Frank	aye	carried.

F. Disband the Recreational Agricultural Use Citizens Advisory Committee established August 22, 2012 – Supervisor Frank thanked the Committee for their extensive work on the Rush Riverside Refuge property (formerly BOCES) located at 6565 East Henrietta Road. There are many suggested activities for the Board to review and create a plan to move forward. Supervisor Frank called for the committee to be disbanded effective June 8, 2016.

RESOLUTION #119-2016

Supervisor Frank moved to disband the Recreational Agricultural Use Citizens Advisory Committee effective June 8, 2016. Councilperson Woolaver seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson Coffey	aye	
Councilperson Kusse	aye	
Supervisor Frank	aye	carried.

VIII. PUBLIC COMMENT

Resident Bill Gaffney stated that he concurred with Resident Schmitthenner's comments in support of the 50 acres Howlett proposal. It will enhance the Rush Riverside Refuge property. A large property that borders Rush was previously beautiful farmland. The land has not been farmed in years and is now overgrown and worthless. The Genesee River runs at length through Rush. Farms that border south of Rush on the Genesee River are very well kept and flourish. The Howlett proposal meets that demand.

Resident Cecil Palmer discussed thoroughly his knowledge of pesticide and herbicides and his professional work with full-strength chemicals. There are many safety measures that should take place in regard to the Rush Riverside Refuge. It is prudent for the town to maintain information on what actual chemicals are being used in farming on the town property. If allowed by deed, Mr. Palmer is in support of the Howlett proposal, however, in his opinion the town must closely oversee the use of chemicals on their property. Material Safety Data Sheets (MSDS) should be available to the town. Without food and crops and the use of pesticides in the United States, there would be much starvation. Mr. Cecil stated that the town should not be inviting visitors on its property when pesticides are used on it. Additionally, Mr. Palmer disagrees on the fine gauge electric fence surrounding the cows. At the very least, they should be flagged with a danger sign.

IX. ADJOURNMENT

There being no further business to conduct, the meeting was adjourned by Supervisor Frank at 7:45 PM.

Respectfully submitted,

Pamela J. Bucci
Town Clerk