

RUSH TOWN BOARD  
Minutes of July 8, 2009  
Regular Meeting

A regular meeting of the Rush Town Board, County of Monroe, was called to order by Supervisor Udicious at 7:00 PM on July 8, 2009, at the Rush Town Offices, 5977 East Henrietta Road, Rush, New York. Everyone present participated in the Pledge of Allegiance.

PRESENT:	Richard Anderson	----	Councilman
	Thomas Doupe	----	Councilman
	Lisa Sluberski	----	Councilwoman
	William Udicious	----	Supervisor
	Pamela Bucci	----	Town Clerk
	Frank Pavia	----	Attorney for the Town
EXCUSED:	Donald Knab	----	Councilman, Deputy Town Supervisor
OTHERS PRESENT:	Dave Sluberski	----	Resident
	Gerry Kusse	----	Code Enforcement Officer, Resident
	Fred Calev	----	Resident
	Alan Burris	----	Resident
	Mary Ellen Burris	----	Resident
	Wendy Jo Kuhn	----	Resident

I. OPEN FORUM –Mr. Udicious offered the floor for those present to address the board.

Fred Calev of Rush expressed his disapproval of Stonewood & Waters' operations at 2500 Rush-Mendon Road. Based on his observations, photos taken and their advertisement of 15 years in the business, which were presented to the board, he is requesting the code enforcement officer ticket Stonewood & Waters for violation of their agreement to not conduct a commercial landscaping business, only a nursery, at the 2500 Rush-Mendon Road address.

Wendy Jo Kuhn of Rush voiced her frustration in discussing problems that she has encountered in her family's obtaining tax exemptions and in the grievance process in getting information from the town's assessor's office. Since the assessor resigned in July, a replacement has not been appointed and she is requesting her questions be answered.

Alan Burris of Rush stated that the Rush Assessor resigned July 2, 2009, and there is no assessor to pursue his current lawsuit with the assessor's office. Mr. Burris expressed his discontentment. Attorney Pavia stated that the lawsuit would

seamlessly continue with the town being represented by its attorneys, Harris, Beach PLLC.

Supervisor Udicious assured Mr. Burris that an Assessor would be appointed within a week in the interim period of holding interviews for an appointment.

II. APPROVAL OF MINUTES

**RESOLUTION #125-09**

Councilman Doupe made a motion to approve the June 24, 2009, Minutes as written. Councilman Anderson seconded the motion.

Roll:

Councilman Anderson	aye	
Councilman Doupe	aye	
Councilwoman Sluberski	aye	
Supervisor Udicious	aye	carried.

III. APPROVAL OF ABSTRACT

**RESOLUTION #126-09**

Councilman Anderson moved Be It Resolved, that having audited all the claims against the funds listed on Abstract #7-1 in the amount of \$23,708.54 be allowed for vouchers #706 through #760. Councilman Doupe seconded the motion.

Roll:

Councilman Anderson	aye	
Councilman Doupe	aye	
Councilwoman Sluberski	aye	
Supervisor Udicious	aye	carried.

IV. CORRESPONDENCE

A. Inspection of Rush Dam – Mr. Harmon of the New York State Department of Environmental Conservation inspected the Honeoye Creek dam and will be addressing his findings with the town engineer.

B. Collateral Source Legislation – A thank you letter from Governor Patterson's office was received for providing a resolution of approval of legislation to end unfair double recoveries against public employers.

V. REPORTS OF OFFICERS AND COMMITTEES

Councilman Doupe reported that the Library Board of Trustees met and is reviewing their 2010 budget plan. Assemblywoman Susan John announced that the Rush Public Library is a slated to receive a member item for the purchase of needed library software and materials.

Councilwoman Sluberski reported that the Recreation's Fishing Derby was a success.

VI. OLD BUSINESS

A. Office of General Services ("OGS") Phase II Environmental Study – Attorney Pavia stated that LaBella Engineers have conducted the study of the 100 acre parcel and found no environmental concerns. An official notification of LaBella's findings will be forwarded to the town offices.

Attorney Pavia will report to the OGS that there were no environmental concerns found on the 100 acre parcel and that the town is ready to move forward in acquiring the property.

**RESOLUTION #127-09**

Councilman Doupe moved that the Supervisor be authorized to proceed with measures to acquire the 100 acre parcel located at East River Road west of the NYS Railroad Museum to the Genesee River north of Route 251. Councilwoman Sluberski seconded the motion.

Roll:

Councilman Anderson	aye	
Councilman Doupe	aye	
Councilwoman Sluberski	aye	
Supervisor Udicious	aye	carried.

B. Stevens-Connor American Legion Post Property - Supervisor Udicious requested board comments.

Since 2001, the Town has been addressing matters in the Master Plan. Supervisor Udicious discussed the town's following the Master Plan adopted in 2001 for developing the hamlet. Land has been purchased in the back of the town hall, a playground has been installed for town's enjoyment and soon the town will have the ability to play sports on its fields. Restrooms will be installed and a pavilion plan has been created. The board has been diligent in trying to sell the Hart's Field property for added recreational funding. In Supervisor Udicious' opinion, along with other considerations, taking possession of the American Legion would not follow the current Master Plan.

Councilman Anderson conferred that although the American Legion Post is an asset to the community, having the town fund its renovation and preserve its history would not be advantageous at this time. There are too many long-term unknowns. Councilman Anderson offered the Legion owners the town's help in providing renovation data already collected in updating the facility.

Councilwoman Sluberski asked for clarification of the town's acquisition of the Legion and meeting compliance as a municipality-operated facility rather than a municipality-owned facility. Attorney Pavia stated that whether or not it is town

operated or owned, at a certain juncture the town must meet compliance. Councilman Doupe noted that the Legion is an ownership of a post corporation which is separate from the organization itself. There are currently less than a dozen owners of the corporation. The owners have the opportunity of passing the building to another entity.

After review of the data collected, Councilman Doupe is not in favor of purchasing the Stevens-Connor American Legion Post located at 2611 Pinnacle Road.

**RESOLUTION #128-09**

Supervisor Udicious made a motion, thanking the Stevens-Connor American Legion Post for their offer but after a thorough study, it is not feasible for the Town to take possession of the property. Councilman Doupe seconded the motion.

Roll:

Councilman Anderson	aye	
Councilman Doupe	aye	
Councilwoman Sluberski	aye	
Supervisor Udicious	aye	carried.

C. Contract with Tower Construction - Supervisor Udicious asked for authorization to sign the contract with Tower Construction to build Phase I of the Pavilion and ADA Compliant Facilities Project for \$149,000 on town hall property located at 5977 East Henrietta Road.

**RESOLUTION #129-09**

Supervisor Udicious made a motion that after town attorney's approval, the Supervisor be authorized to sign the contract with Tower Construction, 14454 East County House Road, Albion, New York 14411 to build Phase I of the Pavilion and ADA Compliant Facilities Project in the amount of \$149,000.00. Councilman Doupe seconded the motion.

Roll:

Councilman Anderson	aye	
Councilman Doupe	aye	
Councilwoman Sluberski	aye	
Supervisor Udicious	aye	carried.

D. Fencing on Town Property – Four estimates for fencing around the west and south side of town hall park property located at 5977 East Henrietta Road have been obtained and forwarded to board members. Pending attorney approval, Supervisor Udicious recommends contracting with the low bidder, Regency Fence Company.

**RESOLUTION #130-09**

Councilman Doupe motioned, pending attorney approval, to authorize Supervisor Udicious sign the contract with Regency Fence Company for installation of industrial grade fencing along the north and south side of the town hall park property located at 5977 East Henrietta Road. Councilman Anderson seconded the motion.

Roll:

Councilman Anderson	aye	
Councilman Doupe	aye	
Councilwoman Sluberski	aye	
Supervisor Udicious	aye	carried.

E. Rush Campus Property – Board of Cooperative Educational Services, ("BOCES"), contract for transfer of property to the Town of Rush at no cost. The parcel contains approximately 216 acres of land, tax account 211.02-2-1./RHEN, East River Road.

Attorney Frank Pavia suggests changing the due diligence period from 30 to 60 days to conduct any additional investigations.

**RESOLUTION #131-09**

Councilman Anderson made a motion authorizing the Supervisor to sign the Acquisition Agreement with BOCES pending final approval of the attorney regarding the due diligence provision. Motion seconded by Councilman Doupe.

Roll:

Councilman Anderson	aye	
Councilman Doupe	aye	
Councilwoman Sluberski	aye	
Supervisor Udicious	aye	carried.

Supervisor Udicious stated that both the 100 acres of state-owned property and the 216 acres of BOCES land are currently not on the Town's tax rolls. At this time, the properties will remain green space. The NYS Transportation Museum is located on a portion of the BOCES property and will remain pursuant to a lease agreement through June 30, 2014.

E. Training Requirements for Zoning Board Members –Donald Van Lare, Zoning Board Chair, requested zoning board member training credit for attendance at the joint meetings conducted in 2009 regarding Town Sign Ordinance and Planned Unit Development.

**RESOLUTION #132-09**

Supervisor Udicious recommended that all Zoning Board members be authorized to include time spent at the joint boards' meetings as required training credit. Councilwoman Sluberski seconded the motion.

Roll:

Councilman Anderson	aye	
Councilman Doupe	aye	
Councilwoman Sluberski	aye	
Supervisor Udicious	aye	carried.

VII. OPEN FORUM

Wendy Jo Kuhn of Rush asked how long Frank Pavia, Esq., has been the attorney for the Town. Mr. Pavia has represented the Town through both law firms of Boylan, Brown et al., and Harris, Beach, PLLC, over the past 10 years. Councilman Anderson noted that although Mr. Pavia is present, the firm of Harris, Beach, PLLC represents the town. Wendy Jo Kuhn further commented on the number of assessors representing the town over the past 10 years. Attorney Pavia pointed out that because of the nature of the job, it is not uncommon for turnover of the assessor's position in any municipality to be high over any period of time.

Wendy Jo Kuhn asked whether or not there was an easement for the museum to stay on the BOCES property. Councilman Anderson responded that the New York Transportation Museum has a lease agreement with the property owner. In answer to Ms. Kuhn's further question of the BOCES property, the town has no development plans for the property at this time.

Wendy Jo Kuhn suggested that tennis courts be placed on the town hall's park property. Supervisor Udicious noted that the Master Plan of 2001 provides space for tennis courts.

Wendy Jo Kuhn spoke of the codes in Rush being applied the same to all residents. Supervisor Udicious assured Ms. Kuhn that all town codes apply to all town residents. It is impossible to observe violations on all 1700 parcels on any given day but when violations are observed, they are reviewed and handled by the Code Enforcement Officer.

VIII. EXECUTIVE SESSION

Supervisor Udicious made a motion to adjourn to executive session at 7:50 PM to discuss potential litigation in regard to a code enforcement matter and personnel matters.

On the motion of Supervisor Udicious, the meeting was returned to regular session at 8:25 PM.

Rush Town Board  
July 8, 2009

There being no further business, a motion was made by Councilman Doupe and the meeting was adjourned at 8:27 PM by common consent of all councilpersons present.

Respectfully submitted,

Pamela J. Bucci  
Town Clerk