

RUSH TOWN BOARD MINUTES  
July 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 July 13, 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 Supervisor
	Daniel Woolaver	-----	Councilperson
	Jillian Coffey	-----	Councilperson
	Gerald Kusse	-----	Councilperson
	Pamela Bucci	-----	Town Clerk
	John Mancuso, Esq.	-----	Attorney for the Town

RESIDENTS PRESENT:

Mark David	-----	Resident, Highway Superintendent
Bill Gaffney	-----	Resident
Al Sweet	-----	Resident
Carol Barnett	-----	Resident
Marianne Rizzo	-----	Resident
Robert Kraus	-----	Resident, REAC Member
Hans Schmitthenner	-----	Resident
Dave Coon	-----	NYS Transportation Museum

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.

No comment from the audience.

II. APPROVAL OF MINUTES

**RESOLUTION #136-2016**

Councilperson McCarthy moved to approve the July 13, 2016, Town Board Minutes as amended. Councilperson Woolaver seconded the motion.

Roll:

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

III. APPROVAL OF ABSTRACT

**RESOLUTION #136-2016**

Councilperson McCarthy moved that having audited all the claims against the funds listed on Abstract #14 of July 27, 2016 for vouchers 2016 #716 through #764 are allowed for payment in the amount of \$43,313.78. Councilperson Woolaver seconded the motion.

Roll:

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

IV. CORRESPONDENCE

Supervisor Frank stated:

- Letter from David Goehring, NYSDOT David made a visit and completed analysis of a request to lower the speed on Route 15A moving east to Rush West Rush Road. The request was denied.
- Rush was listed on the Monroe County Sheriff Zone B July Report. A burglary of a firearm from a home on Honeoye Falls Five Points Road and identity theft reported. Be vigilant.

V. REPORTS OF OFFICERS AND COMMITTEES

Councilperson Woolaver offered the following:

- As liaison, attended the Zoning Board meeting. Two applications and one workshop were heard.

Councilperson McCarthy offered the following:

- As liaison, attended the Library Board of Trustees meeting. They have two vacancies; the positions of treasurer and member are needed.

Councilperson Coffey offered the following:

- As liaison, attended the Rush Fire District Commissioners and Planning Board meetings.

Councilperson Kusse offered the following

- Along with Supervisor Frank, audited the Town Clerk's records and commended Clerk Bucci on the amount of detail that is required for complete record accuracy.
- Received resident calls regarding suspicious/possible drug transactions, including disposal of syringes, occurring in front of the West Rush Fire House. Fire Commissioner Sweet has been contacted. A surveillance

camera will be installed at the West Rush Fire Department Station by the Fire District.

Town Clerk Bucci offered the following:

- Monthly transaction report was submitted to Supervisor Frank with a check in the amount of \$7,950.11. Additional funds amounting to \$302.00 were sent to the appropriate New York State agency.

Attorney for the Town offered the following:

- No report.

Highway Superintendent David offered the following:

- The LED lighting is near completion.

## VI. OLD BUSINESS

A. Status Update on Rush Associates, LLC re-zoning of 7262 West Henrietta Road – 30 day Extension – Supervisor Frank turned the floor over to Attorney Mancuso for an update.

Attorney Mancuso stated that due to the NYSDEC comment being received after the submission deadline an extension of time is provided in order for the comment to be included in the Final Environmental Impact Statement (FEIS). The applicant is in receipt of the correspondence and has prepared and Addendum to the FEIS which includes the NYSDEC comments. A resolution is required and circulation of the Addendum to the interested agencies is required as part of the process.

### **RESOLUTION #137-2016**

#### **SEQRA EXTENSION RESOLUTION**

Councilperson McCarthy 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 August 12, 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 McCarthy	aye	
Councilperson Coffey	aye	
Councilperson Kusse	aye	
Supervisor Frank	aye	carried.

C. Status of the Zoning Citizens Committee Recommendations that were accepted by the Town Board – Supervisor Frank offered the floor to Attorney Mancuso.

Attorney Mancuso stated the draft of the Local Law incorporates all of the comments received from the Zoning Citizens Committee and the Zoning Board Appeals changes in setback requirements which were approved by the Town

Board. The Town Board is to review the Local Law in preparation for setting the public hearing.

Councilperson Kusse raised question related to 500 square footage requirement of a farmstand and the Town Board discussed options and scenarios.

Attorney Mancuso stated that the 500 square footage language for farmstands is included in the Local Law draft. Both definitions could be expanded depending on the intention.

Councilperson Kusse had questions regarding a greenhouse placement which would be larger than 500 square feet and whether it was build space.

Councilperson Woolaver questioned the placement of a farmstand versus the placement of a greenhouse. The intent in revising the Code is to allow farmstands to be located a closer distance to the road.

Supervisor Frank suggested a change to a greenhouse definition.

Attorney Mancuso stated that a change in the word facility to structure in order to allow for an agriculture product to be outside of the structure could be achieved. Is the intent of a farmstand to include the physical structure or the entire area of the agricultural product for sale?

Councilperson Woolaver stated that the intent of the disbanded Zoning Citizens Advisory Committee is to include the structure only. They stressed simplifying and removing the unnecessary two month process in those instances when a request for a variance always met the criteria required.

Supervisor Frank added that a farmstand, in most cases, includes a temporary seasonal structure and not a permanent structure that must follow the Code for permitted construction purposes.

The Town Board directed Attorney Mancuso to draft a special permit mechanism for structures in excess of 500 square feet being located close to the road.

The Local Law will be revised and re-introduced to the Town Board at the next meeting. Any additional comments from the Town Board must be received by Attorney Mancuso no later than August 12<sup>th</sup>.

**RESOLUTION #137-2016**

Councilperson McCarthy moved to schedule a public hearing August 24<sup>th</sup>, 2016 at 7:15 PM. Councilperson Woolaver seconded the motion.

Roll:

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

D. Easement for New York Museum of Transportation – Supervisor Frank opened the floor to Attorney Mancuso.

Attorney Mancuso stated that the easement proposal has been presented to previous town supervisors. A Memorandum is being prepared. The Board's options include continuing the current lease as landlord/tenant which is a straight forward amending mechanism. Leases can extend to between 5 to 49 years. The other option is exploring a more permanent situation in granting an easement to the Museum. An easement is permanent and subject to an environmental review. The town has a fiduciary responsibility in obtaining a fair market value of the property to dispose of it in the best appropriate manner. An easement real estate appraisal would be necessary. The value must also include a consideration for its educational use. Once an easement is granted, it cannot be reversed unless the property reverts back to New York State. Currently, the buildings are owned by the town, however, both a lease and an easement involve ownership of the buildings. The current lease ends in 2019.

Attorney Mancuso will provide Supervisor Frank easement real estate appraisal contacts.

E. Consultant for Demand Charge Analysis – Supervisor Frank concurred with Town Board members that insulating the town hall areas needed completion prior to obtaining a consultant or an electrician to provide an analysis.

## VII. NEW BUSINESS

A. Resolution to approve Supervisor hiring Maintenance/Custodial for Town Hall - Supervisor Frank completed the interview process.

### **RESOLUTION #138-2016**

Councilperson McCarthy moved to authorize the Supervisor to hire John Frew, East Henrietta Road, Rush, New York for the open Maintenance/Custodial position effective July 27, 2016, at Step 3. Councilperson Woolaver seconded the motion.

Roll:

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

B. Town Clerk Audit Report - Supervisor Frank and Councilperson Kusse performed the Town Clerk's audit for 2015 records and thanked Town Clerk Bucci for her time and explanation of duties during the audit. The audit was performed utilizing checklists for fiscal management and oversight for the Town Clerk and Tax Collector. All reconciliations were performed timely and supporting records were accurately maintained. There are no recommendations.

**RESOLUTION #139-2016**

Supervisor Frank moved that the Town Clerk and Tax Collector audit has been completed following the New York State Comptroller's Office Fiscal Oversight Guidelines with no recommendations. Councilperson Kusse seconded the motion.

Roll:

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

C. Resolution to schedule 2017 Budget Workshops – Supervisor Frank noted that the departments are preparing their 2017 budgets and workshops are to be scheduled on August 10<sup>th</sup> and August 24<sup>th</sup> immediately following the regularly scheduled Town Board meetings. Although open meetings, there are no public comment periods during the budget workshops.

**RESOLUTION #140-2016**

Councilperson McCarthy moved to schedule budget workshops meetings on August 10<sup>th</sup> and August 24<sup>th</sup> immediately following the regularly scheduled Town Board meetings. Councilperson Woolaver seconded the motion.

Roll:

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

D. Resolution to purchase windows for 1911 Rush Scottsville Road, Apartment #2  
– Supervisor Frank stated that Building Inspector D'Alessandro has visited Apartment #2 and noted the poor condition. Estimates for the 5 windows have been received for approximately \$1,700. The current tenant wishes to stay, however, will not renew the lease without window replacement.

Councilperson Kusse stated that weather sealing creates the largest return in conserving energy. An energy audit was performed in previous years. The replacement of windows will not create a better seal, however, a lease renewal generates a profit of \$6,100.00 per year.

Councilperson McCarthy suggested that all windows be visited by the Building Inspector prior to the purchase of only five windows. The energy audit of 2011 will also be reviewed.

Councilperson Kusse suggested reviewing any previous board's intended use and decisions regarding 1911 Rush-Scottsville Road.

#### VIII. PUBLIC COMMENT

Supervisor Frank opened the floor for comments to the Board.

Resident Carol Barnett asked for the basis for Executive Session – Real Estate Matter. An electrical professional was suggested to the Town Board.

Attorney Mancuso stated that it is an attorney-client privileged real estate matter.

Resident Hans Schmitthenner complimented the Town Board's leadership, discussion of town issues and decisions are being made on behalf of the Rush community. Names of professional in the heating and cooling business will be offered to Town Board.

Resident Marianne Rizzo wished to keep the New York State Museum of Transportation in the Rush community, however, creating no monetary expense or responsibility to the town.

#### IX. EXECUTIVE SESSION

Supervisor Frank motioned to adjourn to executive session at 8:00 PM to discuss an attorney client privileged real estate matter. Councilperson Coffey seconded the motion.

Roll:

Councilperson Woolaver	aye
Councilperson McCarthy	aye

RUSH TOWN BOARD  
July 27, 2016

Councilperson Coffey	aye	
Councilperson Kusse	aye	
Supervisor Frank	aye	carried.

On the motion of Supervisor Frank, the meeting was reconvened to regular session at 8:20 PM. All members were of common consent.

X. ADJOURNMENT

There being no further business to conduct, the meeting was ended by Supervisor Frank at 8:21 PM. The meeting was adjourned by common consent.

Respectfully submitted,

Pamela J. Bucci  
Town Clerk