

RUSH TOWN BOARD

Tentative AGENDA

June 26, 2013

7:00 PM

PLEDGE OF ALLEGIANCE AND ROLL CALL

OPEN FORUM

APPROVAL OF MINUTES: Meeting of June 12, 2013 Regular

TRANSFER OF FUNDS

APPROVAL OF ABSTRACT

CORRESPONDENCE

PUBLIC HEARING:

REPORTS OF OFFICERS AND COMMITTEES: Monthly Report

OLD BUSINESS:

1. Right to Farm Law Update
2. Hydrofracking Update

NEW BUSINESS:

1. Town Hall Flood
2. Resolution to Support the Town of Ulysses in Amicus Curiae

OPEN FORUM

ADJOURNMENT

**RUSH TOWN BOARD MEETING
PROPOSED RESOLUTION(s)
June 26, 2013**

RESOLUTION # - 2013 Re: Support of the Town of Ulysses in Amicus Curiae in actions involving municipal home rule in the Court of Appeals of the State of New York

Offered by: _____ Seconded by: _____

RESOLUTION OF THE TOWN BOARD/VILLAGE BOARD/COMMON COUNCIL OF THE TOWN OF RUSH TO APPROVE BECOMING AN AMICUS CURIAE IN ACTIONS INVOLVING MUNICIPAL HOME RULE IN THE COURT OF APPEALS OF THE STATE OF NEW YORK

Date: June 26, 2013

WHEREAS, the Towns of Middlefield and Dryden have recently revised their zoning laws to prohibit heavy industrial uses (including natural gas drilling) in their communities and such laws were challenged in court by opponents claims that the Towns did not have the power to regulate natural gas drilling as a land use through zoning; and

WHEREAS, the Town of Ulysses filed an amicus curiae or "friend of the court" brief in both lawsuits in support of its sister Towns in order to reassert the right of each municipality throughout New York State to determine what land uses are appropriate in its community through municipal home rule law powers granted by the NYS Constitution and the NYS Municipal Home Rule Law; and

WHEREAS, the Town of Rush joined with the Town of Ulysses and a coalition of over 50 other municipalities from across the State to file these amicus curiae briefs in the Appellate Division, Third Department in 2012; and

WHEREAS, the Appellate Division, Third Department, ruled in favor of the Towns of Dryden and Middlefield in the matters of Norse Energy Corporation USA v. Town of Dryden et al., and Cooperstown Holstein Association v. Town of Middlefield; and

WHEREAS, the Norse Energy Corporation and the Cooperstown Holstein Association ("Appellants") recently filed motions for leave to appeal each decision to the Court of Appeals – the State's highest court; and

WHEREAS, if the Appellants are granted leave to appeal to the Court of Appeals, the Town of Ulysses will seek leave to file amicus curiae brief(s) with the Court and will file such brief(s) if leave is granted; and

WHEREAS, the Town of Ulysses has requested that other municipalities in the State consider joining the municipal coalition supporting the Ulysses' amicus brief(s) to send a powerful statement to the Court of Appeals, the NYS Department of Environmental Conservation and the NYS Legislature about the importance of protecting municipal home rule in New York State and a municipality's right to decide, for itself, whether natural gas drilling - or any other land use - is appropriate for its citizens.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Town of Rush hereby determines that it is in the public interest of the citizens of the Town/Village/City to support municipal home rule by joining in the amicus brief(s) being filed in the Court of Appeals by the Town of Ulysses and a coalition of municipalities from across the State.
2. The Town of Rush hereby authorizes and directs the Supervisor to complete or cause to be completed any and all such further documents and papers in the name and on behalf of the Town as the Supervisor deems necessary or appropriate to carry into effect the foregoing resolution.
3. The Town Clerk will promptly send a certified copy of this adopted resolution to the Town of Ulysses, 10 Elm Street, Trumansburg, NY 14886.

RESOLUTION # - 2013 Re: Resolution of Designation of Service of Notice of Claim

WHEREAS General Municipal Law, §53 requires towns to file a certificate with the Secretary of State designating the Secretary of State as an agent for service of a notice of claim; and

WHEREAS, General Municipal Law, §53 requires the certificate to include the applicable time limit for filing the notice of claim and the name, post office address and electronic mail address, if available, of an officer, person, for the transmittal of notices of claim served upon the Secretary as the town's agent; and

WHEREAS, pursuant to General Municipal Law, §50-e(1)(a), the applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative of the decedent's estate; Now therefore Be It

RESOLVED, that the Town Board of the Town of Rush, County of Monroe designates Pamela J. Bucci, in her capacity as Town Clerk, to receive notices of claims served upon the Secretary of State by mail at 5977 East Henrietta Road, Rush, New York 14543 and email at pam@townofrush.com.

BE IT FURTHER RESOLVED, that the Town Board hereby directs the Town Clerk to file the required certificate with the Secretary of State informing him or her of the town's designation and applicable time limitation for filing a notice of claim with the town on or before July 14, 2013.