

RUSH TOWN BOARD MINUTES
January 25, 2017

A regular meeting of the Rush Town Board, County of Monroe, was called to order by Deputy Town Supervisor Rita McCarthy at 7:00 PM on January 25, 2017, at the Rush Town Hall, 5977 East Henrietta Road, Rush, New York. Everyone present participated in the Pledge of Allegiance.

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

EXCUSED: Cathleen Frank ----- Supervisor

OTHERS PRESENT:

Mary & Dick Knapp	----	Residents
	-	
Kathryn Hankins	----	Resident
	-	
Marianne Rizzo	----	Resident
	-	
Jim & Mary Wilkins	----	Resident
	-	
Carol Barnett	----	Resident
	-	
Janet Chaize	----	Resident
	-	

I. PUBLIC COMMENT

Deputy Town Supervisor McCarthy opened the floor inviting anyone wishing to address the Town Board to come forward. All those wishing to speak to the Town Board were asked, if able, to stand at the podium and to state their name and address for record keeping purposes.

Resident Kathryn Hankins requested that the Supervisor answer questions presented to the Town Board at the October 26, 2016 public hearing regarding the budget. Additionally, she inquired about a rumor that the town was proceeding with legislation requesting parkland alienation of the 100 acre parcel for the Division for Youth and if so, opposed it. She suggested that if the town was lacking \$14,000 for rental income there were alternatives and inquired about the reserve fund for the property.

Deputy Town Supervisor McCarthy stated that she had seen nothing in writing about legislation and deferred to the attorney.

Attorney Baron was unaware of a legislation action.

Resident MaryAnn Rizzo inquired if there was any discussion about selling property.

Deputy Town Supervisor McCarthy noted that the Town Board has not held discussions of selling town property.

II. APPROVAL OF MINUTES

RESOLUTION #66-2017

Councilperson Coffey moved to approve the January 11, 2017, Town Board Meeting Minutes as written by Town Clerk Bucci. Councilperson Woolaver seconded the motion.

Roll:	Councilperson Woolaver		aye
	Councilperson Coffey	aye	
	Councilperson Kusse	aye	
	Deputy Town Supervisor McCarthy	aye	carried.

III. APPROVAL OF MINUTES

RESOLUTION #67-2017

Councilperson Coffey moved to approve the Organizational Minutes of January 11, 2017, Town Board Meeting Minutes as written by Town Clerk Bucci. Councilperson Woolaver seconded the motion.

Roll:	Councilperson Woolaver		aye
	Councilperson Coffey	aye	
	Councilperson Kusse	aye	
	Deputy Town Supervisor McCarthy	aye	carried.

IV. APPROVAL OF ABSTRACT

RESOLUTION #68-2017

Councilperson Coffey moved that having audited all the claims against the funds listed on Abstract (1-2) for vouchers for #2017 47 through 114 for payment in the amount of \$37,342.19. Councilperson Woolaver seconded the motion.

Roll:	Councilperson Woolaver		aye
	Councilperson Coffey	aye	
	Councilperson Kusse	aye	
	Deputy Town Supervisor McCarthy	aye	carried.

V. CORRESPONDENCE

No Correspondence.

VI. REPORTS OF OFFICERS AND COMMITTEES

Councilperson Woolaver offered the following:

- Attended the Planning Board meeting where one application was heard.

Councilperson Coffey offered the following:

- The Zoning Board of Appeals had no applications; meeting was cancelled.

Councilperson Kusse offered the following:

- As liaison, attended the Fire Commissioners meeting.

Deputy Town Supervisor McCarthy offered the following:

Attended the Library Board of Trustees Meeting. Their fundraiser at Barnes & Noble raised \$500 which is kept in the form of a gift card for library afterschool programs. Monroe County Library System has purchased a program that can be utilized by all libraries in the system for on-line registration of programs being offered. Library Director Flass reviewed end of year statistics, showing a 1% drop in circulation which is very favorable compared to other libraries in the county. It is a testament to the programs that are being offered in Rush.

Town Clerk Bucci offered the following:

- No report.

Town Attorney Baron offered the following:

- No report.

VII. OLD BUSINESS

A. Status Update on Energy Saving Upgrades to Town Hall - Councilperson Kusse received another proposal. The latest firm to come forth has suggested that infrared cameras be used, however, the weather did not cooperate. Infrared cameras take the guesswork out of heat loss.

Deputy Town Supervisor McCarthy asked if the vendor would be available when the weather was 30 degrees. Councilperson Kusse will contact them at the right temperature.

B. Town Court Audit - Deputy Town Supervisor McCarthy stated that Councilperson Woolaver and she would conduct the town court audit.

RESOLUTION #69-2017

Councilperson Coffey moved that both Councilpersons McCarthy and Woolaver be designated to conduct an audit of the Rush Town Court offices as specified by the New York State Comptroller's Office. Councilperson Woolaver seconded the motion.

Roll: Councilperson Woolaver aye
Councilperson Coffey aye
Councilperson Kusse aye
Deputy Town Supervisor McCarthy aye carried.

C. Town Clerk/Collector Audit - Deputy Town Supervisor stated that Councilpersons Coffey and Kusse would conduct the Town Clerk/Collector audit.

RESOLUTION #70-2017

Councilperson Coffey moved that both Councilpersons Coffey and Kusse be designated to conduct an audit of the Rush Town Clerk/Collector of Taxes as specified by the New York State Comptroller's Office. Councilperson Woolaver seconded the motion.

Roll: Councilperson Woolaver aye
Councilperson Coffey aye
Councilperson Kusse aye
Deputy Town Supervisor McCarthy aye carried.

D. Resolution to sign Highway Law Section 284 Agreement - Councilperson Coffey stated that the Agreement is between the Highway Department and the Town in order to allow funds for Rush highway/road work. Roads that will be repaired include Honey Hill, Farmcrest Drive, Harvest Lane, Botwood Lane, Aprille Lane and Hightech Drive.

RESOLUTION #71-2017

Councilperson Coffey to approve the Agreement between the Town and Highway Department pursuant to provision of Section 284 of the Highway Law. Monies in the amount of \$74,000.00 have been allocated for repairs upon 21.68 miles of town highways, including sluices, culverts and bridges having a span of less than five feet and boardwalks or renewals thereof from account A5110.4. Councilperson Woolaver seconded the motion.

Roll: Councilperson Woolaver aye
Councilperson Coffey aye
Councilperson Kusse aye
Deputy Town Supervisor McCarthy aye carried.

RESOLUTION #72-2017

Deputy Town Supervisor McCarthy moved to interrupt the regular session to conduct a public hearing at 7:30 PM and directed the Town Clerk to read the legal notice. Councilperson Woolaver seconded the motion.

Roll: Councilperson Woolaver aye

Councilperson Coffey aye
Councilperson Kusse aye
Deputy Town Supervisor McCarthy aye carried.

PUBLIC HEARING at 7:30 PM - Re: Local Law 1 of 2017 - Real Property Tax law Section 487 Solar or Wind Energy Systems Exemption

Following distribution of the proposed Local Law to the Town Board members, Town Clerk Bucci stated that the Notice of Public Hearing was duly published in the Henrietta Post on January 19, 2017, with the same being posted on the Town Clerk's bulletin board and the town website. For the record, Town Clerk Bucci read the Legal Notice in its entirety.

PLEASE TAKE NOTICE, a public hearing will be held by the Rush Town Board, at the Rush Town Hall, 5977 East Henrietta Road, Rush, New York, on the 25TH day of January at 7:30 PM, local time, for the purpose of amending Chapter 103, Article VI of the Code of the Town of Rush in relation to taxation of solar, wind or farm waste energy systems.

Copies of the proposed Local Law #1 of 2017 are available for inspection at the Town Clerk's Office during normal business hours.

At such hearing any person may be heard in favor of or against the revisions to the Rush Town Code as proposed at the above time and date.

Deputy Town Supervisor read the following:

**LOCAL LAW NO. __ OF 2017 - TO ADDING
ARTICLE VI TO CHAPTER 103 OF THE CODE OF
THE TOWN OF RUSH IN RELATION TO TAXATION
OF SOLAR, WIND OR FARM WASTE ENERGY
SYSTEMS**

BE IT ENACTED, by the Town Board of the Town of Rush, Monroe County, State of New York, as follows:

1. Chapter 103 of the Code of the Town of Rush shall be amended by adding the following Article VI and Section 103-12 to Chapter 103 of the Code of the Town of Rush:

Article VI
Solar, Wind Energy and Farm Waste Energy Systems

§ 103-12. The exemption from real estate taxation granted by the provisions of Real Property Tax Law § 487 for any solar or wind energy systems and for any farm waste energy system whose construction began subsequent to the effective date

of this Article, shall not be applicable within the jurisdiction of the Town of Rush.

2. This local law is adopted pursuant to NYS Municipal Home Rule Law and Real Property Tax Law § 487.

3. All other local laws and ordinances of the Town of Rush that are inconsistent with the provisions of this local law are hereby repealed provided, however, that such repeal shall only be to the extent of such inconsistency. In all other respects, this local law shall be in addition to such other local laws or ordinances regulating and governing the subject matter covered herein.

4. If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

5. This local law will take effect upon filing in the office of the New York State Secretary of State.

Deputy Town Supervisor McCarthy opened the floor to those signed up to speak at the public hearing.

Resident Hankins stated that she is a member of the Renewable Energy Advisory Committee of the Town and stated that one of their goals was to have incentives to encourage solar for both residential, commercial and farmers. She stated that under the Department of Taxation and Finance, Rush would be one of the first in Monroe County to adopt opting out. Mrs. Hankins was unable to locate Minutes of the prior meeting regarding solar on the town website. She is opposed to opting out and taxing property owners and does not have enough information to make a thorough decision.

Town Clerk Bucci stated that the Minutes were on the website within the search engine under Town Code and offered to assist Mrs. Hankins in locating them.

Resident Maryanne Rizzo, member of the Renewable Energy Advisory Committee, stated that she encourages renewable energy and opposes the Local Law. Additionally, she wanted to ask a question.

Deputy Town Supervisor McCarthy stated that public hearings are for residents to comment in favor of or against a proposal. It is not a question

and answer period, however, additional information regarding the proposed Local Law will be stated for a better understanding.

Resident Carol Barnett stated that she wanted her questions answered so that she could apply an accurate opinion. If the town opts out, could it impose a tax? If residents are to be affected, she requests an answer.

Attorney Barton stated that the way the law is written, there is no differential between residential or commercial projects. Having the town adopt the opting out local law gives an assessor the possibility in determining whether or not an assessment would be increased.

Resident Carol Barnett stated that at the last meeting, she believed that a commercial grade solar farm was being proposed and the town wanted to know how to manage it. She further stated that she had no idea that the opting out would affect residential use. She asked why this administration, that states they want to lower taxes, wants to place taxes on residents in a state where renewable energy is encouraged. Is there a period of time in which the public can submit their support or opposition of the Local Law. Having solar will then become a burden to the taxpayers.

Deputy Town Supervisor stated that the Board has 60 days in order to respond to the letter of intent that has been received which would be February 21st.

Attorney Baron stated that, if the Board chooses, it can leave the public comment period open.

Resident Janet Chaize stated that she installed a solar array and questioned the realtor about possible ramifications and having her assessment increased. The realtor stated that it may decrease the assessment. Additionally, Ms. Chaize stated that she finds it unfortunate that residents will be punished for making an improvement. What is the interest stated in the resolution of the Town of Rush? What does the town need additional funds for?

Deputy Town Supervisor stated that it is the Town's right to make a decision for the betterment of the town.

Attorney Baron stated that the language presented in the proposed resolution is a determination. The interests are those coming from the public.

Assessor Dan Stanford spoke regarding clarification of the solar exemption. The valuation of solar methodology is the resale of property and the improvements that go with it. There are not many if any properties to value

against. The 487 solar exemption is being talked about, however, the homeowner has the ability to obtain the energy conservation improvement exemption 487-A which provides for solar to be garnered out of the assessment. The 487 agreement being discussed involves any commercial business exemption and may be for a period of 10-15 years. The exemption of removing the solar portion of the equation is not clear. The assessing unit has the availability to promote the energy conservation improvement exemption 487A.

Resident Hankins stated that, although she didn't wish to disagree with the Assessor, solar energy systems do not qualify for exemption 487A. Energy conservation is not among them; it is clean renewable energy. Property values would increase based on the cost of solar unit installation. The town must not adopt opting out. There is no 60 day requirement. Unless someone comes to a town and says that they would like a PILOT. It should be dealt with in a systematic structured way. 487 will not operate for homeowners.

Assessor Dan Stanford read from Section 487 the eligible requirements and property use requirements which include but are not limited to solar and wind systems. Agricultural uses, whether you opt out or not, are eligible for the exemption under the Agriculture and Markets Law. There are towns and school districts in Monroe County that are in the process of or have opted out.

Assessor Stanford stated that the primary difference between a solar residential unit and a solar commercial unit is that it is designed to put kilowatts back into the grid and cause the owner to receive income. The residential unit is an energy conservation step. The assessor can value commercial by the size and income approach. Resident assessments are driven by sales analysis.

Deputy Town Supervisor McCarthy stated that to fully understand the law, discussions with subject matter experts must take place in order to make an educated decision. This matter will be tabled until the next meeting.

Resident Jim Wilkins asked if a solar farming was coming to Rush and why would we want to tax it?

Councilperson Coffey stated that once the town is put on notice of a possible solar farm, it is obligated to address it and hear comments.

Attorney Baron stated the reason for a public hearing is for the Town Board to be educated, hear the public's comments and make a decision. The Town can address the questions once it has accurate answers.

Deputy Town Supervisor McCarthy stated that the Town Board will accept submissions of public comments regarding Local Law 1 of 2017 through February 8, 2017.

RESOLUTION #73-2017

Having no further comment from the audience, Deputy Town Supervisor moved to close the hearing at 8:05 PM. Councilperson Woolaver seconded.

Roll:	Councilperson Woolaver	aye	
	Councilperson Coffey	aye	
	Councilperson Kusse	aye	
	Deputy Town Supervisor McCarthy	aye	carried

Attorney Baron clarified the 60 day time period. The Town Board was approached by a commercial entity that wants to develop a solar project in Rush. Law 487 gives the Town 60 days in order to make a decision of whether or not they wish to enter into a PILOT agreement (Payment in lieu of Taxes). They may decide not to opt out but must make a decision within those 60 days.

Deputy Town Supervisor stated that written public comments regarding Local Law 1 of 2017 will be accepted by the Town Clerk through February 8, 2017.

VII. PUBLIC COMMENT

Deputy Town Supervisor opened the floor for residents to make comments to the Town Board other than what was discussed during the public hearing.

Resident Jim Wilkins asked if part of the sales tax comes back to the town and stated that Rush should let more businesses in town.

Resident Carol Barnett wanted to point out that if you took the advice of the audience present and said no to opting out then you would be welcoming solar farms. Saying no to this would be a yes to businesses and home improvement.

ADJOURNMENT TO ATTORNEY-CLIENT PRIVILEGED SESSION

RESOLUTION #74-2017

Deputy Town Supervisor McCarthy moved to adjourn to an attorney-client privileged session. Councilperson Woolaver seconded the motion.

Roll:	Councilperson Woolaver	aye	
	Councilperson Coffey	aye	
	Councilperson Kusse	aye	
	Deputy Town Supervisor McCarthy	aye	carried.

RESOLUTION #75-2017

Deputy Town Supervisor McCarthy moved to return to the Regular session of the meeting at 8:35 PM. All councilpersons were in agreement.

VIII. ADJOURNMENT

There being no further business to conduct, the meeting was ended by Deputy Town Supervisor McCarthy at 8:35 PM. The meeting was adjourned by common consent.

Respectfully submitted,

Pamela J. Bucci
Town Clerk