

RUSH TOWN BOARD
UNAPPROVED DRAFT MINUTES
REGULAR MEETING via ZOOM
March 8, 2023

A regular meeting of the Rush Town Board, County of Monroe, was called to order by Supervisor Kusse at 7:00 PM on March 8, 2023, at the Rush Town Offices, 5977 East Henrietta Road, Rush, New York 14543 via ZOOM. Everyone that was present participated in the Pledge of Allegiance. The roll was called.

PRESENT:	Gerald Kusse	----	Supervisor
	Amber Corbin	----	Councilperson, Deputy Town Supervisor
	Daniel Chase	----	Councilperson
	Jeanne Morellii	----	Councilperson
	Daniel Woolaver	----	Councilperson
	Pamela Bucci	----	Town Clerk
	David Hou	----	Attorneys for the Town-Boylan, Code

I. ANNOUNCEMENTS

Town Supervisor Kusse made the following announcements:

- Town permission has been approved for the D.E.C. to place traps along town properties to collect European cherry fruit flies

II. PUBLIC COMMENT

Supervisor Kusse invited all for comments to the Town Board.

Resident Phyllis Wickerham repeated objection to the Town Board in spending \$25,000 to fight a lawsuit against New York State Office of Renewable Energy Siting. Town Board has committed funds to the Historical Society for the 1911 corner house. Ms. Wickerham opined that both are frivolous uses of taxpayer dollars and asked how many necessary projects will be overlooked for unnecessary spending.

Resident David Glocker supports pursuit of decision to appeal the Horseshoe Solar Project ORES decision and opined that local laws should not be ignored.

Resident Janet Glocker encouraged the Town Board to protest ORES decision and responsibility for Home Rule law and protection of agriculture. Of importance is preserving the rural character of Rush, preserving the prime agricultural farmland and preserving Home Rule.

Resident David Manning spoke of his working knowledge regarding 94C regulations and citing large scale utility solar in New York State and opined it being a futile attempt and was opposed.

Resident John Kaman supports challenging the ORES decision in civil court.

Mr. Henry, an attorney who represents Invenergy and particularly with Horseshoe Solar stated that both town and Invenergy attorneys are in the process of discussing final stages of a home community agreement and a road use agreement.

Resident Joanne Scanlon opposed moving forward with an ORES lawsuit and asked where additional funds will come from if the lawsuit is litigated. Corn and soybean are being planted on farmland for alternative energy consumption. Resident Scanlon urged the board to negotiate decisions and spend money in a significantly financially responsible way.

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Resident Don Eichenauer noted being not in favor of large scale solar projects but realizes that Horseshoe is handled by New York State. Using taxpayer monies to fund a lawsuit with no chance of success is wasteful.

Resident John Morellii stated installing solar is not reducing carbon emissions.

Kathy Stein of Caledonia, New York hoped that all elected officials vote for best interest of the community and not personal agendas. Horseshoe Solar completed all applications. Ms. Stein is not in favor of a lawsuit.

Residents Rick and Nancy Goetz spoke in favor of pursuing litigation and appealing the ORES decision.

PUBLIC HEARING 7:15 PM – LOCAL LAW TO AMEND CHAPTER 120-7 AND CHAPTER 120-61 OF THE TOWN CODE OF THE TOWN OF RUSH REGARDING ACCESSORY APARTMENTS

Following distribution of the proposed Local Law to the Town Board members, Town Clerk Bucci read the Notice of Public Hearing that was duly published in the Sentinel and posted as required by law.

Supervisor Kusse invited the public to speak.

There were no comments from the audience.

Councilperson Corbin asked that the Local Law be referred to the Planning Board members for comment.

Supervisor Kusse, having heard no additional comments, closed the hearing at 7:30 PM. All board members were in favor.

IV. APPROVAL OF MINUTES

There were No Approvals of Minutes.

V APPROVAL OF ABSTRACT

RESOLUTION #110-2023

Approval of Abstract 3-1

Councilperson Morellii moved having reviewed all vouchers on Abstract 3-1 of March 8, 2023, authorizes payment totaling \$28,792.41 which includes Fund AA General for \$26,668.48, Fund DA Highway for \$1,679.69 and Fund LL Library for \$444.24. Supervisor Kusse seconded the motion.

Roll Vote: Corbin -aye; Chase -aye; Morelli -aye; Woolaver -aye, Kusse -aye.
Carried.

VI. REPORTS OF TOWN BOARD MEMBERS, TOWN CLERK AND ATTORNEY

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Councilperson Corbin reported the following:

- Local Waterfront Revitalization Program committee meeting was cancelled.
- Attended March Town Board Workshop
- Attended Color Rush Green meeting
- Attended Historical Society workshop in pavilion
- Completed court audit with Councilperson Morellii

Councilperson Chase reported the following:

- As liaison, attended Fire Commissioners meeting. They may be purchasing apparatus to assist persons in cardiac arrest
- Attended Fire Department's annual banquet at Wildwood Country Club; made an honorary member
- Attended March Town Board Workshop

Councilperson Morellii reported the following:

- Performed court audit with Councilperson Corbin
- As liaison attended Planning Board meeting
- Attended March Town Board Workshop
- Participated in conference call with Monroe County and MRB Engineering firm regarding grant writing for water districts and funding opportunities

Councilperson Woolaver reported the following:

- Attended Town Board March Workshop
- As liaison attended Library Board of Trustees meeting. There is a continued concern in obtaining monthly finance reports from EPFP

Supervisor Kusse stated the board contracted with EFPR and the agreement with them includes communication with only the Chief Financial Officer who is the Supervisor and the Finance Officer. An annual report has been furnished to the Library Director.

Supervisor Kusse reported the following:

- Crime report has been distributed to the Town Board. Residents should take safety precautions.
- Unplanned expenditures have occurred that include adding a new roof to the town hall and a loss of power initiating a generator failure. Both have been resolved but with unexpected costs.

VII. OLD BUSINESS

A. ORES (Office of Renewable Energy Siting) Litigation Resolution

RESOLUTION #110B-2023

A RESOLUTION AUTHORIZING SPECIAL COUNSEL TO COMMENCE

AN APPEAL OF ORES PERMIT ISSUED TO HORSEHOE SOLAR ENERGY

Councilperson Corbin moved,
WHEREAS, the Town of Rush previously retained Benjamin Wisniewski, Esq., Wisniewski Law, PLLC, to act as special counsel to the Town in connection with the Horseshoe Solar Energy project; and
WHEREAS, on or about December 9, 2022, the New York State Office of Renewable Energy Siting (“ORES”) issued a decision (the “Decision”) which included a denial of the Town’s petition for party status and made certain other determinations that were unfavorable to the Town; and
WHEREAS, the Town has reviewed the Decision with its legal counsel and has, upon further consideration, determined that pursuing an appeal of the ORES Decision would at this time be in the best interests of the Town, its residents, and would be in furtherance of the health, safety, and general welfare of the public;
NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby authorizes and directs Benjamin Wisniewski, Esq., Wisniewski Law, PLLC, to commence an appeal of the ORES Permit, and to prepare and file any further documentation which may be necessary in furtherance thereof. Councilperson Morellii seconded the motion.
ROLL:

Councilperson Chase	nay.	
Councilperson Corbin	aye.	
Councilperson Morellii	aye.	
Councilperson Woolaver	nay.	
Supervisor Kusse.	aye.	Carried.

B. A Horse’s Friend (AHF)

Supervisor Kusse offered the floor to Recreation Supervisor Pat Stephens.

Recreation Supervisor Stephens noted that due to the last minute request, AHF was unable to provide an updated expenses and credit accounting. Having met with Supervisor Kusse and both Matt and Karen of AHF, they explained their progress with repair and updates for the run-in shed and heating system which would continue to be included in the 2023 budget for the year.

The run-in shed is part of the lease improvements.

Councilperson Chase appreciated all improvements and questioned taxpayer funds cost of repairs for the run-in shed roof versus AHF purchase of a portable structure that would not be credited from the rent received.

Councilperson Corbin noted that both Recreation Supervisor Stephens, Supervisor Kusse and the Budget Officer Smith are working to provide a full accounting of costs and credits.

C. Ice Melt System

Supervisor Kusse stated that Gordian’s proposal is no longer available. Another vendor will be contacted.

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VIII. NEW BUSINESS

A. Proposed Resolution to appoint Board of Assessment Review member
Potential candidates were interviewed for the two open positions.

RESOLUTION #111-2023

Councilperson Corbin moved to reappoint Thomas DeFries to the Board of Assessment Review commencing March 8, 2023 through September 30, 2027. Councilperson Woolaver seconded the motion.

Roll Vote: Corbin -aye; Chase -aye; Morelli -aye; Woolaver -aye, Kusse -aye.
Carried.

RESOLUTION #112-2023

Councilperson Corbin moved to appoint Alexis Kyle to the Board of Assessment Review commencing March 8, 2023 through September 30, 2027. Councilperson Woolaver seconded the motion.

Roll Vote: Corbin - **aye**; Chase -**abstained**; Morelli -aye; Woolaver -aye, Kusse -aye.
Carried.

B. Proposed Resolution pursuant to Section 2019-a of the Uniform Justice Court Act

RESOLUTION #113-2023

Councilperson Morellii moved that pursuant to Section 2019-a of the Uniform Justice Court Act an audit was conducted of the Rush Town Just Court on February 24, 2023 for the year 2022 and that the Rush Town Justice Court findings report provide by Councilperson Corbin and Councilperson Morellii seconded the motion.

Roll Vote: Corbin -aye; Chase -aye; Morelli -aye; Woolaver -aye, Kusse -aye.
Carried.

C. Road Maintenance at Rush Riverside Refuge (6565 East River Road)

Supervisor Kusse remarked that the ice storm created unsafe conditions on the roadway listed as Forest Lane at the Rush Riverside Refuge.

Board members discussed previous renters of the property, safety and responsibility.

Attorney Hou noted that all roadways at Rush Riverside Refuge, which is town-owned property are included as public roads.

RESOLUTION #114-2023

Supervisor Kusse moved

WHEREAS, the Town of Rush has rented property at the Rush Riverside Refuge located at 6565 East River Road and it is anticipated that the general public will visit that property to see not only A Horse's Friend facility but also for hiking, skiing and other outside activities, the road have been determined to be public roads and,

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WHEREAS, the Rush Highway Department will be responsibility for winter time maintenance of those roads which include snow and ice condition. Councilperson Morelli seconded the motion.

Roll Vote: Corbin -**aye** ; Chase -**nay**; Morelli -aye; Woolaver -aye, Kusse -aye. Carried.

D. Hay Trailer at Rush Riverside Refuge

Supervisor Kusse has attempted to contact the Monroe County Fair Association regarding removal of the trailer that houses Fair equipment.

A hay storage area for AHF was discussed. Recreation Supervisor Stephens has consulted with the Building Inspector and Code Enforcement Officer in allowing AHF a hay trailer on site for unloading and loading of hay. A best location will be designated.

E. Proposed Resolution to Appoint Supervisor's Secretary

Supervisor Kusse noted that his appointment not only serves as his secretary but the administrative secretary to the Planning, Zoning and Conservation Boards.

RESOLUTION #115-2023

Councilperson Chase moved to accept the Supervisor's appointment of Shay Snapp as Supervisor's Secretary at Step 1 effective March 13, 2023 through December 31, 2023. Supervisor Kusse seconded the motion.

Roll Vote: Corbin -**aye**; Chase -aye; Morelli -aye; Woolaver -aye, Kusse -aye. Carried.

IX. ADJOURNMENT

Town Supervisor Kusse moved, having no further business to discuss, to adjourn the meeting at 8:25 PM. All parties were in favor.

Respectfully,

Pamela J. Bucci
Town Clerk