

TOWN BOARD
May 11, 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 May 11, 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
Daniel Woolaver	-----	Councilperson
Gerald Kusse	-----	Councilperson
Pamela Bucci	-----	Town Clerk
John Mancuso, Esq.	-----	Attorney for the Town

EXCUSED: Rita McCarthy	-----	Councilperson, Deputy	Town
Supervisor			
Jillian Coffey	-----	Councilperson	

OTHERS PRESENT:

Dave Sluberski	-----	Resident
Tim & Christine Sheffer	-----	Residents
Harvey Seymour	-----	Resident
Al Sweet	-----	Resident
Pat Kraus	-----	Resident
Carol Barnett	-----	Resident
Marianne Rizzo	-----	Resident
Cecil Palmer	-----	Resident
Jim Chaize	-----	Resident
Kathryn Hankins	-----	Resident
Hans Schmitthenner	-----	Resident
Julia Lederman	-----	Resident
Christopher Giordano	-----	Resident

I. PUBLIC COMMENT

Supervisor Frank opened the floor inviting for 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.

Resident Tim Sheffer asked whether the town attorney had an update from the Attorney General's Office regarding the Rush Riverside Refuge properties proper use.

Supervisor Frank stated that the attorneys for the town are continuing communication with the Attorney General's office.

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Resident Kathryn Hankins questioned why the resolution on the agenda is not available on the town website.

Town Clerk Bucci answered that the resolution for acceptance of the Rush Associates Final Environmental Impact Statement had just been drafted and received from the town attorneys. A copy is available for the public on the sign-in table located at entrance to the meeting room.

Resident Jim Chaize stated that there is value in keeping trees and is concerned about the worth in cutting down trees.

II. APPROVAL OF MINUTES

Town Clerk Bucci called the vote, however, being that Councilpersons McCarthy and Coffey are excused and Councilperson Woolaver was excused from the April 27, 2016 meeting and abstained from the vote, there is no quorum. Supervisor Frank added that the Minutes of April 27, 2016, will be presented for approval at the next Town Board meeting.

III. TRANSFER OF FUND

There was no transfer of funds.

IV. APPROVAL OF ABSTRACT

RESOLUTION #105-2016

Councilperson Woolaver moved, having audited all the claims against the funds listed on Abstract of May 9, 2016 for vouchers 2016 #454 through #485, that they be allowed for payment in the amount of \$25,956.40. Councilperson Kusse seconded the motion.

Roll:	Councilperson Woolaver	aye	
	Councilperson Kusse	aye	
	Supervisor Frank	aye	carried.

V. CORRESPONDENCE

- Supervisor Frank received a letter from the NYS Museum of Transportation requesting assistance in replacing a roof. Town Board members will review the request.
- NYSDEC is seeking approval to proceed with an acquisition of an 11.6 acre parcel adjacent to Oak Openings on Honeoye Falls Five Points Road.

B

V. REPORTS OF OFFICERS AND COMMITTEES

Councilperson Woolaver offered the following:

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- No report.

Councilperson Kusse offered the following:

- As liaison, attended the Conservation Board meeting. Subdivision applications were reviewed. Agricultural district maps were requested. The Assessor will be meeting with the Conservation Board regarding agricultural districts.

Town Attorney offered the following:

- No report.

Town Clerk Bucci offered the following:

- No report.

Supervisor Frank offered the following:

- Attended the Association of Towns Finance training.

Renewable Energy Citizens Committee (RECC) offered the following:

- No report.

Supervisor Frank noted that RECC Chair Robert Powers will be providing a final report at the May 25 Town Board Meeting.

VII. **OLD BUSINESS**

A. Status Update on Rush Associates, LLC re-zoning of 7262 West Henrietta Road, Rush - Supervisor Frank stated the FEIS (Final Environmental Impact Statement) has been accepted by the Town Board.

Attorney Mancuso stated that once the Board accepts receipt of the Final EIS, it is circulated to all involved and interested agencies. The Town Board will have 30 days to adopt a Findings Statement.

B. Rush Town Court Audit - Supervisor Frank stated that both she and Councilperson Woolaver completed the Rush Town Court Audit. The report was read aloud. It will be submitted to the New York State Office of Court Administration.

RESOLUTION #106-2016

Councilperson Woolaver moved to accept the Audit of the Rush Town Justice Court Records provided by Councilperson Daniel Woolaver and Supervisor Cathleen Frank pursuant to NYS audit guidelines. Councilperson Kusse seconded the motion.

Roll: Councilperson Woolaver aye

Councilperson Kusse aye
Supervisor Frank aye carried.

C. Update on the Howlett agriculture proposal - Supervisor Frank noted that the attorneys for the town are continuing discussions with the Attorney General and Office of General Services.

D. Update Zoning Citizens Committee Recommendations - Supervisor asked for additional comments from the Board.

Councilperson Woolaver requested consideration in relation to farm stands utilizing a front lot line instead of a pavement line. The issue is the placement of the stand, not parking of cars. Based on the changes suggested, a current farm stand would be in immediate violation. Attorney Mancuso's preference is to limit the use of terms that are undefined but will review the issue.

VIII. NEW BUSINESS:

A Resolution to Accept Rush Associates LLC Finance Environmental Impact Statement (FEIS) - Supervisor Frank stated that the Town Board is in receipt of the FEIS.

**RESOLUTION #107-2016
FINAL ENVIRONMENTAL IMPACT STATEMENT
RESOLUTION FOR PETITION TO RE-ZONE
7262 W. HENRIETTA ROAD**

Councilperson Woolaver moved,

WHEREAS, on November 13, 2013, the Town Board of the Town of Rush (the "Town Board") accepted an application from Rush Associates, LLC (the "Applicant") 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 N.Y.C.R.R. 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 requiring the preparation of a Draft Environmental Impact Statement ("DEIS") by the Applicant; and

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WHEREAS, a Final Scoping Document was accepted by the Town Board on September 9, 2015 for preparation of the DEIS; and

WHEREAS, the Applicant prepared a DEIS pursuant to 6 N.Y.C.R.R. § 617.9, which was accepted by the Town Board on January 13, 2016, and a public hearing was held on the DEIS on February 24, 2016, and

WHEREAS, the Town Board conducted the requisite comment period pursuant to the SEQRA regulations in order to receive public input on the DEIS and the Petition; and

WHEREAS, upon completing the public comment period for the DEIS, the Town Board authorized the preparation of a Final Environmental Impact Statement ("FEIS") for the Petition; and

WHEREAS, the FEIS has been prepared for the Petition which has been reviewed and deliberated on by the Town Board.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN OF RUSH TOWN BOARD AS FOLLOWS:

Section 1. Pursuant to 6 N.Y.C.R.R. §§ 617.9 of the SEQRA regulations, the Town Board accepts the FEIS as complete and directs that copies of the FEIS be provided to all involved and interested agencies, as well as to any individual requesting a copy.

Section 2. The Town Board shall prepare, file, and publish a notice of completion of the FEIS in accordance with 6 N.Y.C.R.R. § 617.9(a)(6) and 617.12 of the SEQRA regulations.

Section 3. Pursuant to 6 N.Y.C.R.R. §§ 617.11 of the SEQRA regulations, interested and involved agencies, as well as the public, shall be afforded ten (10) calendar days to consider the FEIS prior to the Town Board adopting its SEQRA findings statement for the Petition.

Section 4. 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, including maintaining copies of the FEIS for public review at the Town of Rush Town Clerk's Office and the Rush Public Library, as well as posting a copy of the FEIS on the Town website located at *www.townofrush.com*.

Section 5. This Resolution shall take effect immediately upon adoption.

Councilperson Kusse seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson Kusse	aye	
Supervisor Frank	aye	carried.

B. Pipitone Maintenance Contract for William R. Udicious Pavilion – Supervisor Frank noted that a maintenance agreement was necessary for the pavilion. In the past, maintenance of the pavilion was performed on an as-needed basis. The Town Hall is currently contracted with Pipitone Enterprises, Inc. They have provided an annual maintenance contract for the pavilion for \$450.00.

RESOLUTION #108-2016

Councilperson Woolaver moved to authorize the Supervisor to enter into a maintenance agreement for the William R. Udicious Pavilion located at 1900 Rush Scottsville Road, Rush, New York with Pipitone Enterprises, LLC, Churchville, New York for an annual fee not to exceed \$450.00. Councilperson Kusse seconded the motion.

Roll:

Councilperson Woolaver		aye	
Councilperson Kusse		aye	
Supervisor Frank		aye	carried.

C. Farmer’s Market at Rush Town Hall – Supervisor Frank has been approached by Resident Jeff Werner regarding relocating the Farmer’s Market from the Rush United Methodist Church parking lot to the Rush Town Hall parking lot. Having the market at the Town Hall may increase attendance by its location and it is in close proximity to the playground and Library. An updated and the original draft contract were distributed to the Town Board for review. The town attorney will also review the contracts. The town’s insurance carrier has been consulted. Special permits and certificates may be required by vendors. Pavilion use on Wednesday evenings in 2015 was eight out of thirteen. Those evenings were used for recreational classes. Other possible charges, date and times and types of vendors were discussed.

Councilperson Kusse asked whether or not the Rush United Methodist Church was aware of the possible change in venue. Supervisor Frank stated that Resident Jeff Werner is planning to contact the church administration. Over the past couple of years, only two vendors have participated in the market.

VIII. PUBLIC COMMENT

Resident Carol Barnett asked that an abbreviated letter in the resolution accepting the FEIS be corrected.

Town Clerk Bucci acknowledged the correction. The official Minutes will include the corrected resolution.

Resident Kathryn Hankins commented that the resolution states that FEIS has been prepared for the Petition which has been reviewed and deliberated on by the Town Board. The DEC website states the FEIS is supposed to be gone through by the lead agency step by step to make sure that every single comment raised has been addressed.

Resident Kathryn Hankins commented that leases for both BOCES and Division for Youth properties were done with seven bidders for proposals. There is only one

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applicant now that was not an initial bidder. According to NYS guidelines, any land use is subject to a permissive referendum. Where is the clause? Why is the Town not opening it up to other bidders? Buffers are not being monitored.

Attorney Mancuso stated that the town attorney, town engineer and town board have reviewed the FEIS since its receipt. The Board has made the decision that they have sufficiently deliberated on the document. There is no requirement that a step by step review of comments take place in an interactive discussion.

Resident Dave Sluberski commented regarding the Farmers Market. In doing his own research, he has contacted the Rush United Methodist Church whom is unaware of the possible change in venue. The church stated that the market was loosely organized. Moving it to the town hall may create traffic congestion, may be a conflict of interest and twelve towns in the county support markets but none of them occur on town properties. Resident Sluberski also commented that the farmer's market might be better promoted.

Resident Hans Schmitthenner supports the Farmer's Market but doesn't support beer marketers being included which may attract a different clientele. The Firemen's Field should be considered as a venue.

Supervisor Frank clarified that beer drinking would not be permitted, however, beer product sales would be permitted. Other farmer's markets have such vendors.

Resident Hans Schmitthenner suggested that a public comment period include discussions with the Town Board. Also, when presentations are made at a meeting, a question and answer period would be beneficial, although the discussion may get out of control. Monitoring by the Town Board and limits on speaking time were suggested by Mrs. Schmitthenner, however, he stated that he was unfamiliar with Roberts Rules in conducting a meeting.

Attorney Mancuso stated that there is no legal requirement that a Town Board have a question and answer period. It is also within the Board's discretion as to how to manage a public comment period.

Resident Kathryn Hankins noted that at different times, the Town Board has answered specific questions.

Resident Don Scheg agreed with Resident Schmitthenner comments. The Town Board should change the way meetings are conducted. Mr. Scheg stated that there has been and is no overall vision for the Rush Riverside Refuge property. Town government should not be in the property management business. The RACC suggested a non-profit corporation care for the Rush Riverside Refuge property. Management of the property should

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not be under Town Board control but under the direction of the non-profit corporation. Farming is different and vision for the land may be different. In talking to NYS Parks, farming is not in conflict and not incompatible with a park. Leases should be made public and open for bid for all farmers and the leasee should be held accountable to the terms. In his opinion, based on visiting a Howlett property, care of it does not meet his standards.

Resident Marianne Rizzo commented that there be more open communication during town board meetings and presentations of any kind and should be in the form of a question and answer session. Is the pavilion still \$100 for residents and \$200 for non-residents? Consideration should be given in removing other activities or services from the pavilion in order the have a farmer's market.

Resident Kathryn Hankins stated that the town hall back parking lot is not ADA compliant.

X. ADJOURNMENT

There being no further business to conduct, the meeting was adjourned by common consent at 7:45 PM.

Respectively submitted,

Pamela J. Bucci
Town Clerk