

RUSH TOWN BOARD MINUTES
MAY 10, 2017

A regular meeting of the Rush Town Board, County of Monroe, was called to order by Town Supervisor Cathleen Frank at 7:00 PM on May 10, 2017, at the Rush Town Hall, 5977 East Henrietta Road, Rush, New York. Everyone present participated in the Pledge of Allegiance.

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| PRESENT: Daniel Woolaver | ----- | Councilperson |
| Rita McCarthy | ----- | Deputy Town Supervisor |
| Jillian Coffey | ----- | Councilperson |
| Gerald Kusse | ----- | Councilperson |
| Cathleen Frank | ----- | Supervisor |
| Pamela Bucci | ----- | Town Clerk |
| John Mancuso, Esq. | ----- | Attorney for the Town |

OTHERS PRESENT:

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| Don Sweet, Resident | Brent & Janice Morris, Residents |
| Sharlene Reeves, Monroe County Fair Assoc. | Jerry Farrell, Resident, MC Fair Assoc. |
| Dick & Mary Knapp, Residents | Al Sweet, Resident |
| Tim McCarthy, Resident | Dave & Sandra Sluberski, Residents |
| Tim & Christine Sheffer, Residents | Kirsten Flass, Library Director, |
| Resident | |
| Jim Wilkins, Resident | Jim & Jean Scancarello, |
| Residents | |
| Bill Ryan, Resident | Kathryn Hankins, Resident |
| Pat Kraus, Resident | Carol Barnett, Resident |
| Cecil Palmer, Resident | John Frew, Resident |
| Marianne Rizzo, Resident | Christopher Giordano, Resident |
| John & JoAnn Felsen, Residents | Jim Kolb, Resident |
| Jim Dierks, Museum of Transportation | Diane Van Lare, Resident |
| Jean Dupont, Resident | Beth Hoak, Resident |
| Philip Dagger, Resident | Jim Smith, Resident |
| Royer Pfersick, Resident | Joan Starkweather, Resident |
| Harvey Seymour, Resident | Janice Morris, Resident |
| Patricia Stephens, Recreation Director | Richard & Linda Repka, Residents |
| Hans Schmitthener, Resident | Fran Grello, Resident |
| Janet Glocker, Resident | Robert Nesbitt, Resident |
| Mark David, Highway Superintendent, Resident | |

I. PUBLIC COMMENT

Supervisor Frank 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 read aloud written comments which included her summary of NYS Law regarding rescinding lease agreements and approving

RUSH TOWN BOARD
MAY 10, 2017

licensing agreements, avoiding a permissive referendum, the Board's attempt to subvert public scrutiny, and avoid issues of parkland alienation. It appears that there are undisclosed motivations of the Town Board. Their decisions appear improper and raise serious questions and concerns about the undisclosed motivations of the Town Board. There appears to be backroom lease deals and personal bias. There has been no open discussion or process to analyze alternative uses of the property. The public needs confidence in their elected officials representing their interests. Rush is giving away 119 acres and it is not right.

Resident Hans Schmitthenner commented that the Town Board is moving forward in a positive way and are very transparent. The Recreational Advisory Citizens Committee (RACC) made presentations to the Town Board making comment of their findings of beautiful farmland. The property has always been farmland. The number of large farmers in and around the community are few. Lease deals are relatively standard of dollars per acre per year. Supervisor Frank has a holistic approach has been available to answer my questions. The Board has to be realistic. There are only so many things the town can do without utilizing taxpayer money. There is no conspiracy. All residents should work together.

Mr. Schmitthenner stated that a 7 year lease was openly discussed by Mr. Howlett at a Town Board meeting. His long-term written plan was taking poor trees out and designing a buffer strip around the river. He was very knowledgeable about run off and how to contain it and minimize the pesticides.

Resident Beth Hoak commented that Rush is a gem and asked the Town Board to be stewards of the soil and water. A resource was submitted to the Town Board regarding sustainable and safe farming practices. It is important to provide vegetative buffers to protect the soil that may otherwise keep other things out. It is very important to offer and protect soil and water.

Resident Chris Giordano commented that he does not have enough information to make good decisions. More information should be available on the town website concerning lease versus a license. A proposal to have the Monroe County Fair in Rush may be fabulous or disastrous. What is the rush? He is interested in the concept of a charrette for the hamlet and why not a charrette for the Rush Riverside Refuge land?

Supervisor Frank welcomed anyone interested in discussing additional information about a subject to contact her directly, either by phone, email or by making an appointment.

Resident Janice Morris stated that Rush has been a perfect home for the last 4 ½ years. They chose Rush because it fulfilled many of their requirements

and is a beautiful town. A registered camper is in the driveway. A neighbor complaint has never been voiced. Being a good neighbor is important. As an analogy, one must be tolerant of families with children. Children grow up, have cars, and at times can consume a driveway. Kids with cars come and go. Couples can become single and need a hobby. Storing their camper offsite would be a hardship. Why have these changes become so important? It can always be worse.

II. APPROVAL OF MINUTES

RESOLUTION # 127-2017

Councilperson McCarthy moved to approve the April 26, 2017, Minutes as written by Town Clerk Bucci. Councilperson Woolaver seconded the motion.

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| Roll: Councilperson Woolaver | aye |
| Councilperson McCarthy | aye |
| Councilperson Coffey | aye |
| Councilperson Kusse | aye |
| Supervisor Frank | aye carried. |

III. APPROVAL OF ABSTRACT

RESOLUTION #128-2017

Councilperson McCarthy moved that having audited all the claims against the funds listed on Abstract for vouchers for #2017 426 through 479 be allowed for payment in the amount of \$46,574.31. Councilperson Woolaver seconded the motion.

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| Roll: Councilperson Woolaver | aye |
| Councilperson McCarthy | aye |
| Councilperson Coffey | aye |
| Councilperson Kusse | aye |
| Supervisor Frank | aye carried. |

IV. CORRESPONDENCE

Supervisor Frank had no correspondence to report.

V. REPORTS OF OFFICERS AND COMMITTEES:

Councilperson Woolaver offered the following:

- No report.

Councilperson McCarthy offered the following:

- No report.

Councilperson Coffey offered the following:

RUSH TOWN BOARD
MAY 10, 2017

- Performed and completed an audit with Councilperson Kusse of the Town Clerk/Collector Pamela Bucci and submitted the results. Town Clerk Bucci's work is very thorough. Thanks were given to Town Clerk Bucci for her work supporting the town.

Councilperson Kusse offered the following:

- Attended the Fire Commissioners meeting and participated in the audit.

Town Clerk Bucci offered the following:

- No report.

Town Attorney Mancuso offered the following:

- No report.

Highway Superintendent offered the following:

- Finishing third week of town-wide brush pick-up.

Library Director Flass offered the following:

- Friends of the Library have scheduled Eight Days a Week – Beetles tribute band concert July 28 from 6:30 PM until 8:00 PM.

7:15 PM – PUBLIC COMMENT PERIOD – Town and Monroe County Fair Association Partnership

Supervisor Frank stated that members of the Monroe County Fair Association are present and asked for a completed site plan. Mr. Farrell noted that it is not yet completed.

Supervisor Frank read aloud that the first exhibition of the Monroe County Fair Association "Fair" was held at the Rush Firemen's Field. The goal of this proposal is to establish a town and fair partnership at the Rush Riverside Refuge located at 6565 East River Road to support an old-fashioned agricultural fair. The proposal does not include a midway or rides.

The Fair wishes to conduct the Monroe County Fair on the property from August 4th – 6th and utilize three and possibly four buildings and outside space. Agricultural and fair activities will take place and will not include a midway and rides. For 2017, alcohol will not be sold. A plan to control noise, traffic and safety will be a top priority of the partnership. The Town will seek appropriate insurance and hold harmless agreements. Funding will be comprised of a \$97,000 Fair infrastructure grant from NYS Ag & Markets. The grant includes a stipulation that a minimum of a ten year lease must be

RUSH TOWN BOARD
MAY 10, 2017

established. The Town previously was awarded a \$44,000 grant from Senator Rich Funke which must be used for drilling a well, putting in a septic system and repairing a horse barn. The Town has \$80,000 in earmarked funds for the property which it has obtained through leasing the land. The Fair is in the process of sketching a site plan.

Supervisor Frank opened the floor to comments from the audience.

Resident Dick Knapp stated that having the State give the Rush Riverside Refuge property (formerly BOCES) to the Town is both a blessing and a curse. The land needs to be cared for. The Town does not have the funds to take care of it and employees already have their designated duties. The Fair is a great idea. The Board is doing a great job and never fails to look out for townspeople.

Resident Christine Shaffer supports the Fair but is concerned that it may change the quaint Town of Rush. A clear vision and plan must be presented. Lacking a clear vision may lead to a bad outcome including destruction of animal habitats, traffic gridlock, vandalism, and tons of trash. The future of our town should not be left to chance.

Resident Kathryn Hankins stated she supports the Fair, however, switching from leasing the land to licensing it is upsetting. A full State Environmental Quality Review Act (SEQRA) is required. Children coming to the land must be protected.

Resident Carol Barnett asked if the proposal will be meet the requirements of the SEQRA. There are many issues to go over in a short timeframe.

Resident Cecil Palmer noted that the noise from the Fair will be heard by residents much like the Firemen's Carnival is heard by surrounding neighbors. Mr. Palmer asked of the hours being considered and possible entertainment creating noise. All state and federal agencies requirements must be adhered to. An engineer study of the buildings should be conducted. A calculation of funds being paid out and possibly received over 10 years must be considered. Mr. Cecil encouraged Mr. Howlett to use more environmentally friendly chemicals in his farming. A science research center is another idea for the use of the property.

Resident Don Sweet stated that if one takes no risk, one will reap no reward. If a town wants to keep what it has, it must do new things to keep its services. Mr. Sweet believes the Fair is sustainable and will benefit the community.

RUSH TOWN BOARD
MAY 10, 2017

Resident Chris Giordano believes there is not enough information and a proposal should be in writing.

Resident Marianne Rizzo asked if tractor pulls would be included in the Fair. She opposes the Fair and supports anyone who opposes it on the Rush Riverside Refuge. A 10 year commitment is a long time. The concerns she has include noise, the Town's decision-making, public safety, hazardous wire fencing and uneven land. Ms. Rizzo disagrees with Monroe County Planning and Development Director Jeff Adair's prior comment that in order for a community to continue to keep what they have, they must change.

Jim Dierks, Trustee at the NYS Museum of Transportation, is in support of the Fair being held on the Rush Riverside Refuge. Electric trolley rides will fit very well with the Fair. August 6th is a railroad day event. A coupon for a discount to fairgoers has also been discussed. Much mowing has done on the Museum property which can provide overflow parking if the Fair requires it. A hay wagon shuttle from the Fair to the parking lot is a good idea.

Pat Stephens, Recreation Supervisor, is thankful that the Monroe County Fair Association approached the Town. The Fair itself is only four days. There are all kinds of opportunity for 4-H groups and a great utilization of the property. An engineering study was completed and indicated that if the buildings were not used, they would deteriorate. Improvements cost money and the Town's leasing the land previously provided funds for that purpose. Ms. Stephens looks forward to having programs on that property in the future.

Residents Linda and Richard Repka are in support of the Fair and Town partnership, thanking the Board for doing their due diligence. It is a wonderful opportunity and very well outlined. This is a rural community and Rush is in need of infrastructure improvements. They believe that noise and pollution levels will be low and the community benefits relatively large.

Resident John Felsen noticed in the Fair flyer that the Rich Funke grant is for a septic system and well drilling and asked if the Monroe County Water Authority had been contacted regarding extension of sewers and water supply. The adjoining properties owned by Mrs. Weaver and Mr. Cornwell had water issues that were resolved through County water supply and a filtration system. The Monroe County Water detention center may be able to assist with water supply.

Resident Hans Schmitthenner is in full support of the Fair. He asked whether or not additional grant monies were available for funding. All of Rush should have public water. Rush is rural. Tractor pulls were previously held in the hamlet during the Rush Firemen's Carnival. What is the difference?

RUSH TOWN BOARD
MAY 10, 2017

Resident Philip Daggar lives directly across from the Rush Riverside Refuge and is in full support of the Fair. The benefits far outweigh any inconveniences.

Resident Fran Scancarello stated that she is not opposed or in favor of the Fair. Additional data including a site plan is needed. Concerns need to be addressed for long term and use of the property. Why did Rush accept this property when taxpayers have to maintain it?

Resident Jim Smith neither supports or opposes of the Fair. He lives across from the property and would like more information.

Resident Bill Ryan lives at the top of industry hill and sees two beautiful barns deteriorating and would love to see that barns won't fall down. He is in support of the Fair.

Resident Jim Kolb has lived in Rush for 22 years and owns a catering business. He has served over one million people, and it surprises him how many people wonder where Rush is. Mr. Kolb views the Fair proposal as preserving the land and the future of that area. He is in the process of restoring a national historical farmstead in Rush and converting it into a wedding barn. He has gone through the process that the Fair Association is going through, and no one needs to be concerned about the impact it will have on the environment because it will be addressed through the SEQRA, the Department of Transportation and the EPA. He believes that noise will not be an issue as it will be addressed through the \$2000.00 acoustics.

Sharlene Reeves is the President of Monroe County Fair Association. She would like to assure everyone that the MCFA cares about what happens at the property. She is a certified nursery professional and other MCFA members include a farmer and a Rush Town Board member. Off duty New York State troopers will be providing security for the Fair. Rush is a great community, and the MCFA will work hand in hand with the Town Board.

With no further comments, Supervisor Frank made a Motion to close the public comment session.

Councilperson Coffey seconded the Motion.

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| Roll: | Councilperson Woolaver | aye | |
| | Councilperson McCarthy | aye | |
| | Councilperson Coffey | aye | |
| | Councilperson Kusse | aye | |
| | Supervisor Frank | aye | carried. |

VI. OLD BUSINESS:

A. Update on Energy Savings Upgrade for Town Hall

Councilperson Kusse stated it is being worked on by JAG Construction and hopefully by the next meeting he will have updated information. A JAG Construction employee has had to work on air handling issues with the town building and feels it only fair to be compensated for that work, which will be approximately \$150.00. This is work that is needed to ensure that anyone receiving a bid package bids the same thing on air handling in a sealed building. JAG Construction will submit a proposal to the Town Board with the exact dollar amount.

B. Update on the Design Charrette

Supervisor Frank stated that the steering committee is making great progress, and encouraged anyone interested to sign up for the meeting on Saturday, June 10, 2017 from 8 am – 5 pm. Information is in the Town Clerk lobby.

VII. NEW BUSINESS:

RESOLUTION #129-2017

A. Resolution Regarding Local Law No. 1 of 2017 to Amend the Zoning Law of the Town of Rush, Chapter 120-57G of the Zoning Law of the Town of Rush Regarding

Supervisor Frank stated that in 2014, the Town Board formed a citizens committee that was tasked with looking at the zoning code, particularly in the hamlet of Rush where there are mixed residential and commercial zoned properties. Once the ZCC started to look into the code they realized that key components to making changes in the hamlet referred to other sections of the Code. Therefore, the entire zoning code was reviewed and recommendations were made by the citizens committee over a 1 year period. Since that time the town has scheduled workshops with all boards of the town and the ZCC members. The ZCC recommended changes to Section 120-57 and the Town Board has discussed it and come to a compromise. That is the local law before you. Our Code is one of the most restrictive in Monroe County towns and close surrounding towns.

Section 120-57 of the Code is more time sensitive than the other recommendations from the Zoning Citizens Committee. The Code Enforcement Officer has started enforcement on eight property owners but has been asked by the Town Board to delay action until this section of the Code has been voted upon. In the back of the room is a sketch that shows where off-street vehicles can currently be parked, designated by the solid red line. The dashed red line shows where vehicles will be allowed to park only if

they meet the required side and rear setbacks. The Code has been interpreted in the larger area for many years. The town board is tasked with making a decision on what is best for all of the residents in our community.

The Monroe County Planning Office has determined that this local law is a local matter and has approved it pending a 10-day holding period that ends on May 18, 2017.

The Town Board completed the short Environment Assessment Form (EAF) Part 2 and Part 3 at this time.

Due to the fact that the Town Board has issued a negative declaration, Councilperson McCarthy made a Motion for Supervisor Frank to check the box on the short EAF determining the issuance of a negative declaration and execute part 3. Councilperson Coffey seconded the Motion.

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| Roll: | Councilperson Woolaver | | aye |
| | Councilperson McCarthy | | aye |
| | Councilperson Coffey | | aye |
| | Councilperson Kusse | | aye |
| | Supervisor Frank | | aye |
| | | | carried. |

After Town Board review and discussion on the proposed resolution for the adoption of Local Law No. 1 of 2017;

Councilperson McCarthy made a Motion **WHEREAS**, the Town Board of the Town of Rush (the "Town Board") has determined that it is in the interests of the Town of Rush to amend Chapter 120 of the Code of the Town of Rush by amending Section 120-57 of the Zoning Law of the Town of Rush (the "Zoning Law") regarding required off-street parking of motor homes, horse trailers, travel or camping trailers, boat trailers, snowmobile trailers and similar vehicles; and

WHEREAS, a public hearing on Local Law No. 1 of 2017 was held on April 12, 2017 and April 26, 2017 in accordance with the requirements of the New York Municipal Home Rule Law and New York Town Law, and notice was posted as required by law; and

WHEREAS, all persons at the hearing desiring to speak on the matter were heard, all correspondence on the matter was read and these statements were considered by the Town Board; and

WHEREAS a short Environmental Assessment Form has been prepared by the Town in compliance with Article 8 of the Environmental Conservation

Law and 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"), now; therefore

BE IT RESOLVED that the Town Board has determined that the adoption of Local Law No. 1 of 2017 is an unlisted action pursuant to SEQRA and subject to an uncoordinated review by the Town Board as lead agency; that the proposed local law does not present a potential significant adverse impact and thus a Negative Declaration as that term is defined by SEQRA has been issued; and

BE IT FURTHER RESOLVED, upon due consideration by the Town Board, Local Law No. 1 of 2017, a copy of which is incorporated hereto, is hereby adopted and that Section 120-57 of the Zoning Law shall be amended as reflected in Local Law No. 1 of 2017; and

BE IT FURTHER RESOLVED that notice of the Resolution shall be filed and circulated to the extent required by any applicable provision of the Code of the Town of Rush and/or any relevant statute or regulation; and

BE IT FURTHER RESOLVED that said Resolution and local law shall take effect immediately upon its filing in the Office of the Secretary of State in accordance with Section 27 of the New York Municipal Home Rule Law.

Councilperson Woolaver seconded the Motion.

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| Roll: | Councilperson Woolaver | aye |
| | Councilperson McCarthy | aye |
| | Councilperson Coffey | aye |
| | Councilperson Kusse | aye |
| | Supervisor Frank | aye carried. |

B. Resolution to Hire a Gardener

Town Clerk Bucci has advertised, conducted interviews and selected Karl Holtz, who was a former town gardener.

RESOLUTION # 130-2017

Councilperson McCarthy made a Motion to approve the Town Clerk's appointment of Karl Holtz to the seasonal position of Gardener at Step 4 effective May 10, 2017.

Councilperson Woolaver seconded the Motion.

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| Roll: | Councilperson Woolaver | aye |
| | Councilperson McCarthy | aye |
| | Councilperson Coffey | aye |

Supervisor Frank aye carried.

After Town Board review and discussion, a Motion was made by Councilperson McCarthy to sign the licensing agreement with Chase Farms.

Councilperson Woolaver seconded the Motion.

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| Roll: | Councilperson Woolaver | aye |
| | Councilperson McCarthy | aye |
| | Councilperson Coffey | aye |
| | Councilperson Kusse | aye |
| | Supervisor Frank | aye carried. |

D. Resolution to Sign Licensing Agreements with Chase Farms and Howlett Farms

RESOLUTION # 132-2017

After Town Board review and discussion, a Motion was made by Councilperson McCarthy to sign the licensing agreement with Howlett Farms.

Councilperson Woolaver seconded the Motion.

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| Roll: | Councilperson Woolaver | aye |
| | Councilperson McCarthy | aye |
| | Councilperson Coffey | aye |
| | Councilperson Kusse | aye |
| | Supervisor Frank | aye carried. |

E. Resolution to purchase filing cabinets for the Court office

Supervisor Frank received a quote for \$1188.00 for three used filing cabinets that will be painted and refurbished.

RESOLUTION # 133-2017

Councilperson McCarthy made a Motion to purchase filing cabinets for the Court office for no more than \$1,200.00.

Councilperson Woolaver seconded the Motion.

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| Roll: | Councilperson Woolaver | aye |
| | Councilperson McCarthy | aye |
| | Councilperson Coffey | aye |
| | Councilperson Kusse | aye |
| | Supervisor Frank | aye carried. |

VIII. PUBLIC COMMENT

Supervisor Frank opened the floor to anyone wishing to address the Board.

Resident Kathryn Hankins discussed the initial Howlett lease, cattle impacting soil and water and that Howlett farmers are doing something about a buffer. She is committed to this property and had expected discussions but there has been no attempt to have the leases expire. There should be a conversation with the community and have a charrette for the property. How can we maximize and get more money from grants?

Resident Hans Schmitthenner countered this, recalling that when the RACC was formed, he didn't see any money generating proposals. There are a very small number of people trying to push through an environmentally safe alternative for the Rush Riverside Refuge property. The entire state is farmed with millions of acres of land with chemicals that the EPA has deemed okay. This is a farming community. It's a shame that we can't move forward.

Resident Dave Sluberski stated it is great to see a lot of people attending the Town Board meetings. Meetings should not be a debate to attack people, and there should be more respect.

Resident Marianne Rizzo asked where the waste dump is and the acreage.

Supervisor Frank replied that it is owned by New York State and does not know how many acres.

Ms. Rizzo discussed the the installation of solar panels, the short EAF and the impact of chemicals on streams, plant and animal life.

Resident Cecil Palmer is in favor of using land for agriculture to maintain fields so that they are not overgrown.

IX. ADJOURNMENT

Supervisor Frank, having conducted all town business, moved to adjourn the meeting at 9:05 PM. All parties present were in agreement.

Respectfully submitted,

Pamela J. Bucci
Town Clerk

RUSH TOWN BOARD
MAY 10, 2017