

RUSH TOWN BOARD MINUTES
MAY 9, 2018

A regular meeting of the Rush Town Board, County of Monroe, was called to order by Supervisor Frank at 7:00 PM on May 9, 2018 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
Cathleen Frank	-----	Supervisor
Shivaun Featherman	-----	Deputy Town Clerk
John Mancuso, Esq.	-----	Attorney for the Town

OTHERS PRESENT:

Al Sweet	-----	Resident
Pat Kraus	-----	Resident
Carol Barnett	-----	Resident
Carol Ralph	-----	Resident
Beth Hoak	-----	Resident
Janet Glocker	-----	Resident
Dave Sluberski	-----	Resident
Marianne Rizzo	-----	Resident
Cecil Palmer	-----	Resident
Jack Mould	-----	Resident
Kathryn Hankins	-----	Resident
Christopher Giordano	-----	Resident
Jim & Janet Chaize	-----	Residents
Al Choate	-----	Resident
Lee Hankins	-----	Resident
Kirsten Flass	-----	Resident, Library Director
Don Eichenauer	-----	Resident
Sue Mee	-----	Resident, Town Historian

I. PUBLIC COMMENT

Supervisor Frank opened the floor inviting anyone wishing to address the Town Board to come forward.

Resident Beth Hoak read aloud a statement requesting the Town Board to preserve the 100 acres of land at Rush Riverside Refuge and form a citizens committee of town residents. A proposal of the committee's work was presented.

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Resident Carol Ralph read aloud a statement requesting that a proposed resolution on Municipal Home Rule request for Industry property and a discussion of 100 acre proposal on the Town Board agenda be removed. Resident Carol Ralph also read aloud specifically directed questions related to the 100 acre Rush Riverside Refuge parcel.

Resident Janet Glocker read aloud a statement asking the Town Board to be responsible in making decisions for deeded land and supports farming the land in a sustainable capacity.

Resident Jack Mould read aloud a statement asking that the Town Board vote nay on proposed resolution on Municipal Home Rule Request for Industry property for environmental and public reasons and vote nay on proposed resolution to sign a License Agreement with Howlett Farms because it is inconsistent with the deed restriction. Mr. Mould also requested more transparency be provided to residents unable to attend Town Board meetings.

Resident Marianne Rizzo spoke of the towns of Penfield and Brighton approvals of preserving park land. Sustainable farming should be put out to bid for leasing and licensing. Ms. Rizzo also requested clarification on specific portions of the State Environmental Quality Review Assessment (SEQRA).

Resident Kathryn Hankins spoke stating that she is a member of the former citizens committee to provide suggestions to the Board for the uses of the 100.5 acre parcel of the Rush Riverside Refuge. Resident Hankins strongly opposes approval of the Municipal Home Rule Request for the Industry property.

Resident Carol Barnett read a letter aloud indicating her opposition of the resolution of the Municipal Home Rule Request for Industry property and opposition of signing a license agreement with Howlett Farms.

Resident Janet Chaize read a letter from Bethany Choate requesting that the Town table proposed resolution on both the Municipal Home Rule Request for Industry property and in signing license agreement with Howlett Farms until further review and discussion.

Resident Janet Chaize appreciates the Town Board's hard work and submitted comments regarding concerns about the Environmental Assessment Form (SEQRA).

Resident Cecil Palmer spoke about leaving a legacy. Rush Riverside Refuge is a gift from the state that has much to offer. Being a town bicentennial year would appreciate the Town Board providing a good vision for the land.

Resident Chris Giordano spoke at length and of the vision for this land. Mr. Giordano asked if the SEQRA was filled out correctly and suggested that all people work together. A movie was referenced with questions of what the Town Board's vision of the land is.

II. APPROVAL OF MINUTES

RESOLUTION #104-2018

Councilperson McCarthy moved to approve the Town Board Minutes of April 25, 2018 as prepared by Town Clerk Bucci. Councilperson Woolaver seconded the motion.

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

III. APPROVAL OF TRANSFER OF FUNDS

RESOLUTION #105-2018

Councilperson McCarthy having audited all the unexpended balances of existing appropriations for transfers of Buildings-Capital Purchases to Buildings Information Tech for the purpose of reclassification of funds for web design to Info Tech and transfer reclassification of funds to cover IT Services Retainer from Contingency to Buildings Information Tech, move that transfer 3 through 4 in the amount of \$7,500.00 be approved. Councilperson Woolaver seconded the motion.

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

IV. APPROVAL OF ABSTRACT

RESOLUTION #106-2018

Councilperson McCarthy moved having reviewed vouchers #458 through #498 on Abstract #5-1, approves payment in the amount of \$39,494.96. Councilperson Woolaver seconded the motion.

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

V. CORRESPONDENCE

Supervisor Frank had no correspondence.

VI. REPORTS OF OFFICERS AND COMMITTEES

Councilperson Woolaver presented the following report:

- No report.

Councilperson McCarthy presented the following report:

- No report.

Councilperson Coffey presented the following report:

- No report.

Councilperson Kusse presented the following report:

- No report.

Deputy Town Clerk Featherman presented the following report:

- No report.

Town Attorney Mancuso presented the following report:

- No report.

Supervisor Frank presented the following report:

- Recreation Supervisor Pat Stephens submitted a request for a grant for a pickleball court. The average cost estimates received for pickleball court were between \$65,000 and \$90,000. A Greater Rochester Health Foundation grant was submitted for one-half the cost. It was not approved based on the size of Rush.
- Rotary project in the Rush Veteran's Park will commence May 19th
- Requirements for a Solar Zoning Code are being reviewed by the town attorney
- Genesee Valley Railroad Museum and Boy Scouts of America conducted a Camporee at the Rush Riverside Refuge. Over 165 scouts attended.

VI. OLD BUSINESS:

A. Update on Energy Saving Upgrades for Town Hall - Supervisor Frank and Maintenance Supervisor Richard Schneider will be meeting with a QPK engineer for a one day review of the facility.

VII. NEW BUSINESS:

A. Resolution to purchase four desktop computers, two monitors and one printer - Supervisor Frank noted that antiquated computers needed replacement along with a few upgrades.

RESOLUTION #107-2018

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Councilperson Woolaver move to approve the purchase of four computers for replacement for the Recreation Supervisor, Building Inspector, Deputy Town Clerk and Town Clerk, two monitors for the Building and Recreation Departments and a printer for the Supervisor's Office from the PinPoint Group, Inc., 15 East Buffalo Street, Churchville, New York 14428 for an amount not to exceed \$3,000.00. Councilperson McCarthy seconded the motion.

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

B. Resolution to pay PinPoint lapsed billing - Supervisor Frank stated that a retainer agreement that transfers to the following year was not replenished at the beginning of the year and, therefore, \$4,971.79 is owed for technician labor and support.

RESOLUTION #108-2018

Councilperson Woolaver moved to authorize Supervisor to approve payment of the lapsed billing to the PinPoint Group, Inc, 15 East Buffalo Street, Churchville, New York 14428 for an amount of \$4,971.79. Councilperson McCarthy seconded the motion.

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

C. Resolution to establish a retainer with PinPoint - Supervisor Frank stated that being half way through the year, a retainer of \$2,500 is appropriate.

RESOLUTION #109-2018

Councilperson Woolaver moved to authorize the Supervisor to establish a retainer contract for IT support and consulting services with The PinPoint Group, Inc., 15 East Buffalo Street, Churchville, New York 14428 in the amount of \$2,500.00 from funds allocated in A.1620.430. Councilperson McCarthy seconded the motion.

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

D. Resolution to contract for air conditioning for the William Udicious Pavilion - Supervisor Frank noted that adding a glass door on the fireplace notably cut down on the loss of heat in the pavilion and the safety issue with condensation on the floors in the pavilion has been discussed numerous times. Estimates were obtained from Pipitone and Excellent Air.

RESOLUTION #110-2018

Councilperson Woolaver moved to authorize the Supervisor to sign a contract for the installation of a central air conditioning unit including one year maintenance in the William Udicious Pavilion with Pipitone Heating Ventilation and Air Conditioning Service & Installation, 25 East Buffalo Street, Churchville, New York 14428 for an amount not to exceed \$4,375.00. Councilperson McCarthy seconded the motion.

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

E. Resolution to contract with Troy & Banks for utility and cable audit - Supervisor Frank noted that an audit was previously done with another company finding revenue that benefitted the town.

RESOLUTION #111-2018

Councilperson McCarthy moved to authorize the Supervisor to execute a Cable Franchise Fee Audit Agreement and Utility with Troy & Banks Consultants, LLC, 2216 Kensington Avenue, Buffalo, New York 14226 for the purpose of verifying the accuracy of the payments paid or due to the Town for taxes or any other monies. Councilperson Woolaver seconded the motion.

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

F. Resolution to provide Builder's Risk Insurance for the four Monroe County Fair buildings - Supervisor Frank stated that all buildings being renovated by the Monroe County Fair must be covered under proper insurance for approximately six months.

RESOLUTION #112- 2018

Councilperson McCarthy moved to authorize the Supervisor to contract with Selective for Builder's Risk insurance for four buildings occupied by the

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Monroe County Fair located at the Rush Riverside Refuge, 6565 East River Road, Rush, New York 14543. Councilperson Woolaver seconded the motion.

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

F. Discussion of 100 acre proposal - Supervisor Frank asked the town attorney to review the Industry property specifics of the proposal.

Attorney Mancuso stated that last spring the Town Board had afforded considering approval to request the State approve a Municipal Home Rule Request regarding deed restrictions on the Industry property. As part of the process the Board undertook a SEQRA review and treated it as a Type 1 Action and Parts 1, 2 and 3 of the Environmental Assessment Form were completed by the Board in June 2017 issuing a negative declaration finding making the request to amend the restriction that may or may not occur in the future and would not result in a significant impact, would not result in actual use of the property but merely to amend the restriction of the deed. The proposed resolution is merely to amend the request due to the change in the legislation bill number. The resolution allows an administrative adjustment and will not ratify a decision that had been made last year. The legislation has been pending for approximately one year.

A Type II Action is exempt from SEQRA proceeding which calls for nothing to be done.

Councilperson McCarthy requested Attorney Mancuso clarify sections of the SEQRA that are blank.

Attorney Mancuso responded that the Board completed Parts 1, 2 and 3 at the meeting. A walk through of areas of significance was done. The scope is not approval of a project or activity but relates to changing the language restrictions to potentially change future use of the property. A separate SEQRA would be utilized in the future for a different reason.

An additional SEQRA review was done approving the license of that property as it relates to the environmental significance of the farmed acreage by Howlett Farms. Both satisfy the requirements of SEQRA.

Councilperson McCarthy commented that having differences in opinions strengthens democracy. Board members listen to the community both inside and outside of meetings. What was mentioned by the audience was an appointed Citizens Committee that functioned in an advisory capacity for ideas of how to utilize a 300 acre piece of town property. Mr. Howlett had

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been farming the property for five years. Rush is the smallest town in Monroe County. If this committee wants to do something good with land, feasibility must be discussed. The Board had every intention of reaching out to a citizens committee however, the Board must take care of its fiduciary duties. For the past seven years, the highway department has kept the trails clear, former Supervisor Anderson obtained leases allowing funds to be placed aside, the Monroe County Fair arrived and their grant money is funding the buildings repair. The Board must act now. An abundance of funds for this Rush property are not available. The Board consistently receives complaints of the upkeep of the buildings on the property because they are in disrepair.

Councilperson Coffey stated that the Town Board has the responsibility of providing a balance of wishes of all townspeople while adhering to its fiduciary responsibility. As part of the future generation of Rush, and belonging to a farming family, Councilperson Coffey remarked a vested interest in the community and conservation as well as believes that having Bruce Howlett farm the land, bringing a forester in to offer assistance for care of the land shows a strong commitment to taking pride in the land. The Town should pride themselves on having Bruce Howlett offer to take the additional responsibility which is a gem in itself. Rush does not have the funds to take care of the banks and further erosion.

Councilperson McCarthy added that Mr. Howlett will not be benefiting from the land. It has become a safety issue and crippling the land. Hardwoods must grow.

Councilperson Kusse agreed with Councilperson McCarthy's comments. First-hand knowledge of current farming brings thought that sustainable farming versus commercial farming does not work. As previous Code Enforcement Officer met with representatives who discussed recreation, education and agriculture as being a part of the land use. Agriculture cannot be done without some things that are offensive. There is no great loss of valuable trees.

Councilperson Woolaver stated that the proposal discussed by Bruce Howlett is very much like the proposed proposal presented by individual citizens collectively. Mr. Howlett proposed to timber, plant hardwoods, provide pollinators and flowers, maintain the ditches and to take care of the property the way it should be taken care of. The proposal is for seven years. In seven years, the property could become something else.

Supervisor Frank stated that there is now a safety concern on the north end of the property. The trees that are proper can be kept.

Supervisor Frank appreciates the time residents took to draft a proposal for the 100 parcel. There are many sub-projects within the proposal that may be commenced at a future time. The property will evolve and the town can implement different projects as time and money permits.

Councilperson Kusse stated that the town has owned the property for seven years and it is a slow process when funds are not immediate.

Councilperson Coffey stated that funding, especially grant funding takes time. The Town looks carefully at a plan, both pros and cons before executing it.

G. Resolution on Municipal Home Rule Request for Industry Property - The Board members briefly discussed the modification.

Attorney Mancuso stated that in terms of whether or not to approve the Home Rule issue, it is not as much a legal issue but rather a political issue on whether or not it is feasible. There are no material changes in the Municipal Home Rule law that was approved last year. The Board followed the procedures of SEQRA in adopting a negative declaration. Whether or not the public agrees, the Town Board was the lead agency. There has been no environmental request by the state requiring it to be readdressed. There is no modification regarding the restriction.

RESOLUTION #113-2018

Councilperson Coffey moved to approve the modification of the Municipal Home Rule Request for Industry Property. Councilperson Kusse seconded the motion.

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

Councilperson Coffey read Resolution #114-2018 aloud.

RESOLUTION #114-2018

Supervisor Frank moved,

**RESOLUTION OF THE TOWN BOARD OF THE
TOWN OF RUSH REQUESTING THE NEW YORK
STATE LEGISLATURE TO AUTHORIZE THE
LEASING OR LICENSING OF CERTAIN REAL
PROPERTY OWNED BY THE TOWN OF RUSH FOR**

**RECREATIONAL, EDUCATIONAL OR
AGRICULTURAL PURPOSES**

WHEREAS, by deed dated January 12, 2010 and filed in the Monroe County Clerk's Office at Liber 10869 page 606 (the "Deed"), New York State conveyed certain real property to the Town of Rush located in the Town of Rush, County of Monroe and State of New York, containing approximately 100.548 acres of land (the "Property"); and

WHEREAS, the Deed provides that the grant "is made and accepted upon the condition that the said premises shall be properly improved and maintained for park and recreational purposes"; and

WHEREAS, in accordance with the requirements of the New York Municipal Home Rule Law and New York Town Law, legislation by the New York State Legislature and compliance with the State Environmental Quality Review Act are required to authorize the Town of Rush to lease or license the Property for recreational, educational and agricultural use; and

WHEREAS, a Full Environment 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"); and

WHEREAS, on June 14, 2017, the Town Board determined that the adoption of this Resolution is a "Type I Action" pursuant to SEQRA and that the proposed Resolution and Home Rule Request does not present a potential significant adverse impact, and thus a Negative Declaration as that term is defined by SEQRA was issued; and

WHEREAS, on June 14, 2017 the Town Board adopted a resolution requesting that the New York State Legislature adopt legislation authorizing the Town to lease or license the Property (or a portion thereof) for recreational, educational and/or agricultural purposes; and

WHEREAS, the New York State Legislature has requested that the Town Board approve a second resolution authorizing the Town to submit an updated home rule request as a result of a minor, non-substantive amendment to the language of the proposed Bill in the New York State Senate and Assembly.

NOW, THEREFORE, BE IT RESOLVED that upon due consideration by the Town Board, the Resolution is hereby adopted and the Town Board requests that the New York State Legislature adopt legislation authorizing the Town to lease or license the Property (or a portion thereof) for recreational, educational and/or agricultural purposes as amended and proposed in the New York State Assembly as Bill Number A8399-A and the New York State Senate as Bill Number S6101-B; 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 the Town Clerk is directed to submit all required documentation to the New York State Senate home rule office and Senator Rich Funke to request that the New York State Legislature adopt legislation authorizing the Town to lease or license the Property for recreational, educational and/or agricultural purposes. Councilperson McCarthy seconded the motion.

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

H. Resolution to sign a License Agreement with Chase Farms - Supervisor Frank stated the proposed License Agreement is for cattle grazing.

The Board approved the one-year License Agreement and an environmental review was done approving a negative declaration. An extension of a license agreement is exempt under the Quality and Review Act. The same conditions apply.

RESOLUTION #115-2018

Councilperson Coffey moved to authorize the Supervisor to sign a one-year License Agreement with Chase Farms Partnership, 5874 East Henrietta Road, Rush, New York for pasture purposes related to a grazing operation at 6565 East River Road commencing May 10, 2018. Councilperson Woolaver seconded the motion. Councilperson McCarthy seconded the motion.

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

I. Resolution to sign a License Agreement with Howlett Farms -

Councilperson Coffey moved to authorize the Supervisor to sign a one-year License Agreement with Howlett Farms, Inc., 1112, East River Road, Avon, New York for agricultural purposes commencing May 10, 2018. Councilperson McCarthy seconded the motion.

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

J. Discussion on Bicentennial Clock - Historian Susan Mee, Chair of the Bicentennial Committee, along with member David Sluberski stated that the committee would like to purchase a commemorative street clock including a time capsule. The Committee has chosen a possible location in the village green area because of its visibility and as focal point of the town. It will be enhanced by the Veteran's Park, Honeoye Falls Creek and aligns with the charette. Mr. Sluberski provided research of design and features from three different companies. A two-sided clock was presented. Historian Mee stated that a full picture will be presented to the Town Board at the following board meeting.

Supervisor Frank reviewed the town's procurement policies.

IX. PUBLIC COMMENT:

Supervisor Frank opened the floor inviting anyone wishing to address the Town Board to come forward.

Resident Carol Ralph stated additional questions and comments regarding the Rush Riverside Refuge property particulars. Specific eco-system information was provided and pesticide use was questioned.

Resident Carol Barnett commented on the Municipal Home Rule legislation and voiced her distrust made by the decisions of the Board regarding some uses of the property.

Resident Kathryn Hankins commented that there was no case law license and lease concern. A SEQRA requires a Type I action and notice given to all interested parties and believed the matter should have been handled as a change of zoning. The Genesee River is not listed on the EAF. Mrs. Hankins believed that the Board circumvented procedures for the Monroe County Fair use and provided misinformation to officials. Organic farmers should have been asked to respond for use of the land.

Resident Don Eichenauer voiced his appreciation of the diligent work the Town Board has done. The large acreage parcel is much for a small town to fund in a maintenance capacity with buildings going into disrepair. The Board is maintaining without the use of additional tax burden to its residents.

Resident Marianne Rizzo suggested, as a former Rush Riverside Refuge citizen's committee member, that the town does not need the buildings. Competitive bids should be sought for the buildings. Habitat and the environment are priceless. The trees should be taken appropriately. The property should be intended for a park.

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Resident Beth Hoak stated that trees fallen should be left alone. Tributaries need to be protected. The proposal presented should be discussed further versus bypassing it entirely.

Resident Janet Chaize stated that some of the items on the SEQRA review were answered incorrectly. Pesticides coupled with farming do not create additional pollination. The detailed proposal presented cannot include dollars and cents without the Town Board's support.

Resident Cecil Palmer questioned who would be paying for Mr. Howlett's proposal regarding clearing riverbank and ditches. A presentation to the Town Board on pollinators should be undertaken. Round-up additive is harmful.

Resident Pat Kraus suggested sustainability of the land and pollination should be encouraged. Pollination should continue to be established in Rush.

Resident Chris Giordano asked if a pesticide list is available to the public.

Supervisor Frank stated that records can be requested under the Freedom of Information Act through the Town Clerk's Office.

X. EXECUTIVE SESSION:

Supervisor Frank moved to adjourn to Executive Session regarding the Capps property litigation at 9:25 PM. Councilwoman Coffey seconded the motion.

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

Supervisor Frank Moved to reopen the meeting after Executive Session at 9:55 PM. Councilwoman Coffey seconded the motion.

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

XI. ADJOURNMENT:

Supervisor Frank moved, having no further town business to conduct, to end the meeting. The meeting was adjourned by unanimous vote at 9:56 PM.

Respectfully submitted,

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Shivaun Featherman
Deputy Town Clerk