

RUSH TOWN BOARD
Minutes of December 9, 2015

A regular meeting of the Rush Town Board, County of Monroe, was called to order by Supervisor Cathleen Frank at 7:00 PM on December 9, 2015, 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
	Kathryn Steiner	-----	Councilperson
	Rita McCarthy	-----	Councilperson, Deputy Town Supervisor
	Jillian Moore	-----	Councilperson
	Pamela Bucci	-----	Town Clerk
	John Mancuso, Esq.	-----	Town Attorney

OTHERS PRESENT:

Al Sweet	Resident
Kathryn C. Hankins	Resident
Mark David	Resident, Highway Superintendent
Cecil Palmer	Resident
Robert Powers	Resident
Dick and Mark Knapp	Residents
Carol Barnett	Resident
Dave Sluberski	Resident
Scott Strock	Resident
Amber Corbin	-Resident
Don Sweet	-Resident
Marianne Rizzo	Resident
Don Scheg	Resident
Pat Kraus	Resident
Anna Moretti	Honeoye Falls Resident
Tim Ahrens	SunEdison
Ben Sufrin	SunEdison
Selden Chase	Resident
James Bucci	Resident
Debra & David Hunt	Avon Residents
Laura Smith, Esq.	Harter, Secrest & Emery

I. OPEN FORUM

Supervisor Frank opened the floor inviting 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 Carol Barnett spoke requesting the Town Board to reject the draft Environmental Impact Statement submitted by Rush Associates regarding the rezoning of 7262 West Henrietta Road and read aloud her reasons.

Resident Kathryn Hankins read aloud her concerns and timely response of the draft Environmental Impact Statement submitted by Rush Associates regarding rezoning of 7262 West Henrietta Road.

Resident Marianne Rizzo spoke requesting the Town Board to reject the draft Environmental Impact Statement submitted by Rush Associates regarding the rezoning of 7262 West Henrietta Road.

II. APPROVAL OF MINUTES

RESOLUTION #194-2015

Councilperson Moore moved to approve the Minutes of November 25, 2015, as written by Town Clerk Bucci. Councilperson McCarthy seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson Steiner	abstained	
Councilperson McCarthy	aye	
Councilperson Moore	aye	
Supervisor Frank	aye.	carried.

III. APPROVAL OF TRANSFER

Councilperson Steiner motioned to approve the transfer of funds from the unexpended balance of existing appropriations for transferred numbered #20 through #24 in the amount of \$4,680.00 is approved. Councilperson Woolaver seconded the motion.

Transfer Number	Amount	Decrease Appropriation		Increase Appropriation	
		Account	Description	Account	Description
20	1,630.00	A.1990.400	Supervisor Contingency	A.1220.400	Supervisor Contractual
			To cover utility audit-computel		
21	1,600.00	A.1990.400	Supervisor Contingency	A.1910.400	Supervisor Insurance
			To cover added dump truck		
	750.00	A.1990.400	Supervisor	A.7510.200	Historian Capital Outlay

22			Contingency To cover bookcases		
23	500.00	A.1990.400	Supervisor contingency To cover CHA meeting attendance	A.8020.400	Planning Contractual
24	200.00	A.1990.400	Supervisor Contingency To cover final fall plants/winter supplies	A.8510.400	Beautification Contractual

Roll:

Councilperson Woolaver	aye	
Councilperson Steiner	aye	
Councilperson McCarthy	aye	
Councilperson Moore	aye	
Supervisor Frank	aye.	carried.

IV. APPROVAL OF ABSTRACT

Councilperson Steiner moved that having audited all the claims against the funds listed on Abstract dated December 9, 2015, for vouchers 2015 1249 through 2015 1305 in the amount of 304,233.17 be approved. Councilperson Woolaver seconded the motion.

V. REPORTS OF OFFICERS AND COMMITTEES

Councilperson Woolaver offered the following:

- No report.

Councilperson Steiner offered the following:

- No report.

Councilperson McCarthy offered the following:

- Letter received by Eileen and Tom Tanner, Barbara and Mike Jacobs and William Jacques was read aloud regarding their utmost appreciation of Supervisor Frank, Highway Superintendent David and Attorneys John Mancuso and Frank Pavia in moving the 4 year project of paving of Madelyn's Way forward to completion.

Councilperson Moore offered the following:

- No report.

Supervisor Frank offered the following:

- The gas tanks at the 7-11 site at 5947 East Henrietta Road, were removed and replaced a couple of months ago and a leak in the soil was found. Remediation efforts are taking place over the course of the next 3 years.

The Department of Environmental Conservation, Department of Transportation, Town of Rush and Monroe County are involved in managing and monitoring the project.

- The 2016 Organizational Meeting has been called and scheduled for Wednesday, January 6th at 7 PM. An Oath of Office ceremony will take place prior to the meeting.

RESOLUTION #195-2015

Councilperson Steiner moved to request the Town Clerk to advertise in the town's official newspaper for a 2016 Organizational Meeting on Wednesday, January 6, 2016, at 7 PM at the offices of the Town of Rush, 5977 East Henrietta Road, Rush, New York 14543. Councilperson McCarthy seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson Steiner	aye	
Councilperson McCarthy	aye	
Councilperson Moore	aye	
Supervisor Frank	aye.	carried.

Councilperson McCarthy asked if the soil clean-up crew of 7-11 would be the same on a regular basis. Supervisor Frank stated that the remediation crew will be monitoring the soil on a continual basis.

Town Clerk Bucci offered the following:

- I've filed my October monthly report with Supervisor Frank along with a check in the amount of \$18,569.10. Payment totaling \$ 1,124.09 was provided to NYS for dog licensing, and DEC licenses.
- Shana Barber, our very recent hire as Assessor's Clerk has submitted her resignation effective December 18th. She is relocating to Albany where her husband accepted a position.
- The topic of public notice for meetings and booking of meeting rooms at the Town Hall has recently been voiced by a resident that may have been spread to other residents. To clarify, specific rules and guidelines as Town Clerk must be followed in placing notices of public meetings and booking of meeting rooms. There are specific statutes and Town Laws that need to be followed when providing notice to the public about town meetings but not any and all meetings that occur at the Town Hall. On January 14, 2004, the Town Board unanimously "moved that the use of meeting space in the town hall, (meaning this Meeting Room) be limited to departments and committees of town government. On an as needed basis, requests will be considered." Requests have come from county officials and agencies and, if available, the town meeting rooms are used

for those purposes. Agencies booking a room have their own policies to follow on notice to the public. Unless the Town Board amends the resolution of 2004, regarding the use of the meeting room, I will follow the resolution as it stands. Following the statute and town laws is a given.

- Notification received from the NYS Department of Agricultural & Markets. The Town's dog shelter, Suburban Animal Hospital, was inspected and granted a satisfactory rating.

Attorney Pavia offered the following:

- No report.

Highway Superintendent David offered the following:

- No report.

Building Inspector Kusse offered the following:

- No report.

Code Enforcement Officer Tracy offered the following:

- No report.

VI. OLD BUSINESS

A Excellus Dental Insurance Option – Supervisor Frank asked comments from the Town Board on offering full-time employees an individual plan in lieu of the medical benefit decrease of \$300. Councilperson Moore stated that it was beneficial and supported the plan.

RESOLUTION #196-2015

Councilperson Woolaver moved to enter into a Dental Insurance Option Plan for \$300 to all full-time employees. Councilperson Moore seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson Steiner	aye	
Councilperson McCarthy	aye	
Councilperson Moore	aye	
Supervisor Frank	aye.	carried.

B. Chief Fiscal Officer Audit – Supervisor Frank requested an additional Town Board member volunteer for the auditing of the Chief Fiscal Officer audit. Councilperson Jillian Moore offered to audit the records along with Councilperson McCarthy.

C. Update on Rush Associates Draft Environmental – Supervisor Frank stated that the draft Environmental Impact Statement has been forwarded to the town engineer.

Attorney Frank Pavia stated that the town engineers have been asked to review the proposed DEIS and provide their feedback to Rush Associates. The Town is currently awaiting another version from Rush Associates. Upon its receipt and completion, the town, if satisfied, can then deem it complete. The town attorneys are awaiting an updated version from the applicant. That step will initiate a formal public comment process.

D. Resolution to dedicate of Madelyn's Way - Supervisor Frank added that Madelyn's Way is complete and ready to be dedicated.

RESOLUTION #197-2015
RESOLUTION ACCEPTING THE ROAD DEDICATION OF
MADLYN'S WAY

Councilperson Steiner moved **WHEREAS**, on January 20, 2009, the Town of Rush Planning Board (the "Planning Board") approved **Application 2009 – 02P** by Charles Salvaggio, James M. Dys and DS Builders of WNY, Inc. for Subdivision and Site Plan approval to subdivide a 29.6 acre parcel of section 4 of the Nowak Subdivision into 7 lots; a single family dwelling is planned for 4 of the 7 lots; and the property is located at 8300 West Henrietta Road and is in an R-30 zoning district; and

WHEREAS, a special meeting was held by the Planning Board on September 8, 2015 to discuss the potential revocation of the Site Plan approval for the remaining undeveloped parcel in the Nowak Subdivision on the grounds that the applicant has failed to comply with the conditions of approval, including but not limited to, the failure to extend the Irrevocable Letter of Credit as required by Condition #4; and

WHEREAS, on September 8, 2015, the Planning Board adopted a resolution revoking Site Plan approval for the remaining undeveloped parcel in the Nowak Subdivision on the grounds that the applicant has failed to comply with the conditions of Subdivision and Site Plan approval, including: (1) the failure to extend the Irrevocable Letter of Credit as required by Condition #4; and (2) the failure to construct Madelyn's Way in accordance with the schedule/time line for construction as provided to this Board that expired in 2009; and

WHEREAS, the applicant advised the Planning Board that he intended on paving Madelyn's Way in October 2015 provided that Site Plan approval is reinstated by the Planning Board; and

WHEREAS, on October 8, 2015, the Planning Board adopted a resolution that Site Plan approval for the remaining undeveloped parcel in the Nowak Subdivision is reinstated effective upon completion of paving of Madelyn's Way in accordance with the requirements of Chapter A125 of the Code of the Town of Rush, including but not limited to, that the standards set forth in the Design Criteria and Construction Specifications have been met and approved by the Town Engineer and the Rush Highway Superintendent; and

WHEREAS, by letter dated December 3, 2015, the Town Engineer, William T. Ewell, P.E. confirmed that through the Town Highway Superintendent, Mark David, that Madelyn's Way has been constructed in conformance with the Town construction specifications and is ready for final dedication to the Town; and

NOW THEREFORE, upon consideration by this Board of this matter, and this Board having given the matter due consideration, it is

RESOLVED that the Board does hereby accept and dedicate as a public road the street commonly known as Madelyn's Way, subject to the Town of Rush receiving a warranty deed from James M. Dys describing Madelyn's Way and filed such warranty deed in the Monroe County Clerk's Office, and has received a notarized Dedication and Release of Land describing Madelyn's Way and signed by the party releasing the property to the Town of Rush, together with any and all documentation necessary to fully effectuate the transfer and dedication of Madelyn's Way to the Town of Rush; and be it

FURTHER RESOLVED that the Town Supervisor be, and hereby is, authorized and directed to record the necessary documents relating to public dedication of the aforesaid road, with the original documents to be returned to and filed permanently with the Town Clerk's Office. Councilperson McCarthy seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson Steiner	aye	
Councilperson McCarthy	aye	
Councilperson Moore	aye	
Supervisor Frank	aye.	carried.

E. Resolution to Advertise for Assessor's Clerk – Supervisor Frank noted that an advertisement for Assessor's Clerk was necessary.

RESOLUTION #198-2015

Councilperson Steiner moved to authorize Town Clerk Bucci to advertise for the Assessor's Clerk position in the designated publication. Councilperson Moore seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson Steiner	aye	
Councilperson McCarthy	aye	
Councilperson Moore	aye	
Supervisor Frank	aye.	carried.

Presentation by SunEdison

Supervisor Frank welcomed and offered the floor to SunEdison for presentation to the Town Board for further developments and requests.

Attorney Pavia stated that the purpose of SunEdison's is to provide an informal presentation to the Town Board and announce that they have secured certain leases in the town. The definition in the town's Code book is outdated and SunEdison is requesting either a zoning amendment to the Code or allowing an application for a Special Use Permit. A variance would be sought from the Zoning Board of Appeals. The Board has the option of changing the definition in the Code in order to be updated to today's industry. The Board does not need to commit to any approvals, merely providing them a proper process in which to submit an application.

Ben Sufrin introduced himself, along with Tim Ahrens and Laura Smith, Esq., of Harter, from Sun Edison. Public utilities are allowed in agricultural districts, however, the definition of solar utilities is not used in the Rush Code. SunEdison requested the proper avenue in submitting an application for a use variance through the Zoning Board of Appeals or requesting a change in the Zoning Code by Local Law. Four sites in the town have been selected, each requiring 10-12 acres of a ground-mounted solar system. Three hundred homes would be able to consume the energy generated from each site.

National grid collects the stored energy that is distributed through the lines that run adjacent to the property which provides the electricity to homes in the infrastructure. NYS DERDA provides funding for the project. Ben Sufrin stated that 50% of electricity would be from renewable energy from the project.

Councilperson McCarthy, as the liaison to the Renewable Energy Citizens Committee requested review of the financials. Mr. Ben responded that all

financials are kept up to date and can be reviewed. SunEdison provides an upfront spend and a return over 20 years.

Councilperson Moore asked if SunEdison holds the liability. Attorney Laura Smith responded that it is covered through the SEQRA process. NYS Agriculture and Markets is in support of small sale on farm operations as long as 110% of farm operation falls under tax assessment provisions. If a farm operation ceases, they are no longer allowed protection and exemptions, however, they would not lose their tax status.

Attorney Pavia stated that SunEdison is providing the presentation because NYSDERDA is providing grants by end of year 2016. All aspects of a solar process must be done in order to receive the grant. In reference to SunEdison's letter, they are asking that the Town Board, Zoning Board of Appeals or Planning Board be the lead agency.

Councilperson McCarthy asked whether a change in the zoning code could be visited at a later date. Attorney Pavia responded that the legislative act rests only with the Town Board and can occur at any time.

Attorney Pavia stated that a letter from the Town does not approve, support or oppose of the project. The Zoning Board of Appeals will act under the SEQRA process. Once a municipality agrees to provide a process, NYSDERDA will process the grant application.

Councilperson McCarthy asked if a municipality working on solar for its own municipality use would follow the same process. Private leases, however, are subject to regulars but solar rays may not be required to go through the SEQRA process.

RESOLUTION #199-2015

Councilperson Steiner moved to authorize the Supervisor to correspond with SunEdison in seeking an application for a use variance through the Zoning Board of Appeals. Councilperson Woolaver seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson Steiner	aye	
Councilperson McCarthy	aye	
Councilperson Moore	aye	
Supervisor Frank	aye.	carried.

VII. OPEN FORUM

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

Resident Kathryn Hankins spoke in opposition of recommending a zoning amendment or authorization of SunEdison in applying for a variance. The Renewable Energy Citizens Committee cannot move forward without finishing its work.

Resident Dave Sluberski asked if assessments would change for properties that would be in the same neighborhood as solar farms.

Supervisor Frank stated that at a further date, a public hearing of the SunEdison proposal may be in order, however, today is strictly a presentation to the Town Board.

Resident Marianne Rizzo requested the whereabouts of the site locations and suggested that near the expressway would be a prime area for a solar farm.

X. ADJOURNMENT

There being no further business to conduct, the meeting was adjourned by Supervisor Frank at 8:00 PM. Meeting was adjourned by common consent. A further joint meeting of the Town Board and Zoning Board members took place regarding recommended changes to the Zoning Code by the Zoning Citizens Committee to the Town Board.

Respectively submitted,

Pamela J. Bucci
Town Clerk