

RUSH TOWN BOARD  
Minutes of October 14, 2009  
Regular Meeting

A regular meeting of the Rush Town Board, County of Monroe, was called to order by Supervisor William Udicious at 7:00 PM on October 14, 2009, at the Rush Town Offices, 5977 East Henrietta Road, Rush, New York. Everyone present participated in the Pledge of Allegiance.

PRESENT:	Donald Knab	----	Councilman, Deputy Town Supervisor
	Richard Anderson	----	Councilman
	Thomas Doupe	----	Councilman
	Lisa Sluberski	----	Councilwoman
	William Udicious	----	Town Supervisor
	Pamela Bucci	----	Town Clerk
	Frank Pavia	----	Attorney for the Town

OTHERS PRESENT:

Gregory Terrance- Resident	Don Van Lare – Resident, Zoning Chair
Al Simon – Resident, Zoning Member	Dave Sluberski – Resident
Dan & Sue Woolaver – Residents	Kevin Fuller – RH Post Reporter
Bill Riepe – Resident	Robert Kraus – Resident
Pat Kraus – Resident, Conserv. Member	John Bonzo – Resident
Scott Strock – Resident, Planning Member	Bob Bishop – Resident
Jim Kolb – Resident	Robert McDowell – Resident
Werner Wandersleben – Resident	Jack Mould – Resident, Library Chair
Christine Nothnagle - Resident	Selden Chase – Resident
Julia Lederman – Resident	Bonnie Nolan – Resident
Shelley Larrabee – Resident	Ron Regoord - Resident
Emily Ricke – Resident	Mike Triassi – Resident
Dan Wright – Resident	Archie Kallaur – Resident
Ken Livingston – Resident	Jim & Rosemarie Oppelt – Residents
Sue Beatie – Resident	Chet & Marcianne Suda – Residents
Jon Volpe – Resident	John Vincent – Resident
Jerry & Myrna Watskin – Resident	Ted & Carol Barnett – Residents
John Trubee – Resident	David Vaughn – Resident
Al Owens – Resident	LouAnn Owens – Resident

I. OPEN FORUM – Supervisor Bill Udicious advised all present that Rules and Procedures for Town Board meetings were located at the side sign-in table. He then offered the floor for those present to address the board.

Resident David Sluberski asked if there were currently any pending applications for a planned unit development (PUD) in the town. He further asked for the status of the Dorschel automotive property located at the corner of Routes 15 and 251.

Supervisor Udicious responded that there are no pending applications for a PUD before the town.

Councilman Knab conversed recently with Rick Dorschel, owner of the Dorschel Automotive property on Routes 15 and 251. The property is for sale and the land has been cleared to provide a fuller view. Mr. Dorschel is in the process of downsizing his operation and has removed his cars from the lot.

II. APPROVAL OF MINUTES

**RESOLUTION #153-09**

Councilman Knab made a motion to approve the September 23, 2009, Minutes as submitted. Councilwoman Sluberski seconded the motion.

Roll:

Councilman Anderson	aye	
Councilman Doupe	Aye	
Councilwoman Sluberski	Aye	
Councilman Knab	aye	
Supervisor Udicious	abstained	carried.

Supervisor Udicious was on vacation during the September 23, 2009 Board meeting.

III. APPROVAL OF ABSTRACT

On Abstract #10-1, transaction #3567 vendor's name has been changed to The Sentinel, however, the amount to be paid remains the same.

**RESOLUTION #154-09**

Councilman Anderson moved Be It Resolved, that having audited all the claims against the funds listed on Abstract #10-1 in the amount of \$93,625.70 be allowed for vouchers #1058 through #1130. Councilman Doupe seconded the motion.

Roll:

Councilman Anderson	aye	
Councilman Doupe	Aye	
Councilwoman Sluberski	Aye	
Councilman Knab	aye	
Supervisor Udicious	aye	carried.

IV. CORRESPONDENCE - None to report.

V. REPORTS OF OFFICERS AND COMMITTEES

Utilities Facilities/Distribution – Councilman Knab met with RG&E and Niagara Mohawk to discuss the distribution of utilities to the town pavilion. All applicants' paperwork has been processed to proceed with installation of utilities to the area.

Monroe County Water Authority (MCWA) Service in West Rush – Councilman Knab has scheduled a preliminary meeting with the MCWA in connection with the disconnecting of water to homes located in West Rush. Findings will be reported when available.

Town Hall Plumbing and Electrical – Councilman Knab addressed a hot water problem in the court area with a plumber and an outside lighting problem with an electrician. Both have been resolved.

Honeoye Falls Creek Dam Funding – Councilman Anderson reported on the dam funding/project timeline:

- (1) Spring/Summer 2008 the Town jointly requested financial assistance in repairing the dam from the State Emergency Management Organization (SEMO) and the Federal Emergency Management Agency (FEMA)
- (2) Fall 2008, both FEMA and SEMO joint applications were rejected
- (3) Late Summer 2009, the Town received grant money from Monroe County for and completed stabilization of dam
- (4) Mid-September 2009, an additional joint application with Monroe County and FEMA was submitted and additional information regarding matching funds was requested.
- (5) October 2009, Councilman Anderson was contacted by both FEMA and SEMO in reviewing the Town's application in a favorable manner

Councilman Anderson is awaiting further communication.

Possible Rezoning - Councilwoman Sluberski stated that the Zoning Board is awaiting the Town Board's response regarding the rezoning of the Sickles/Volpe property located on Rush-Lima Road, Rush.

Rush Market & Deli property at East Henrietta Road – Supervisor Udicious noted that the present owner has contracted with a company for tank removal. Applying for a town permit is the next step.

VI. OLD BUSINESS

A. Outdoor Storage of Recreational Vehicles – Supervisor Udicious stated that the Planning Board, Zoning Board and Councilwoman Sluberski's additional comments have been received by the Town Board. The matter will be tabled until the board

receives further opinions from the various boards in town on Councilwoman Sluberski's additional comments received on September 23<sup>rd</sup>.

B. Town Park Status – Supervisor Udicious stated that the sheeting was being placed only on the restroom portion of the pavilion roof. Utility services will be placed underground.

C. 2010 Budget – The preliminary budget is available for inspection in the Town Clerk's office and on the town website. The public hearing on the budget has been scheduled for October 28, 2009. In preparation of that hearing, Mr. Udicious stated that the Town Board has planned to keep the tax rate stable, \$4.40/\$1,000. Although the Town is experiencing a loss of sales revenue, increase in mandated state retirement costs and an increase in health care cost, it has made a full-time healthcare change resulting in a savings to the town. There are no planned merit or wage adjustments included in the 2010 budget.

7:15 PM - PUBLIC HEARING – CONSIDERATION IN ADOPTING A PLANNED UNIT DEVELOPMENT (PUD)

Supervisor Udicious ordered the public hearing open at 7:15 PM.

Clerk Bucci noted that copies of the Proposed PUD were available at the sign-in table and that said Notice of Public Hearing was duly published in The Sentinel on September 23, 2009, with the same being posted on same date on the Town Clerk's Bulletin Board. Clerk Bucci read the Notice of Hearing for the record.

Supervisor Udicious briefly overviewed the purpose of the public hearing on the PUD and read an excerpt from his letter published in the Town in the Rush Town News issue of October/November 2009.

Comments were received by the following residents:

Robert Kraus prepared and read a 5 page document making the following five points and asked that serious consideration be made and urged the Board to share with the public through the newsletter their answers. (1) Why do this? (2) Remember what's special about this town. (3) Do we know what it will be like to start from scratch conceptually with each new PUD? (4) Have we really looked at the impact on town-provided services? (5) A PUD in Rush isn't the same as a PUD in Greece or Webster.

Residents Carol and Ted Barnett read and presented to the Town Clerk a letter in opposition of the PUD.

Resident Christine Nothnagle, realtor, gave her expert opinion based on her knowledge of the Rochester area and the nation. Pre-sale requirements on bank loans are at 50% and re-sale of condo and PUD housing nationwide is up 70%. Ms. Nothnagle does not support a PUD on the Town Board's agenda at the present time. She cautioned higher costs of liability and insurance costs on the developer's side of these type of developments and encouraged looking at the Town of Brighton's PUDs. Ms. Nothnagle further recommended that if the Town is looking for a single family higher density area, a consideration may be a PUD that includes only patio homes.

Seldon Chase stated and believes that these developments continue to fail because they increase town services, schools and basic taxes. Mr. Chase strongly discourages the formation of a PUD in Rush.

John Trubee commented that he relocated to Rush because of the quality of life, rural setting and the ability to live in a quiet neighborhood. He is opposed to a PUD.

Bob McDowell commented that given a large development such as a PUD, among other things such as increased traffic, an above-ground sewage system would be necessary and questions the ramifications felt by the community of its possible failure. The volunteer fire department would be compromised. Mr. McDowell is opposed to a PUD.

Dan Wright spoke of his relocation to Rush for its rural setting and his opposition to a PUD.

Resident Myrna Watskin commented on the reasons in relocating to Rush and the necessity of keeping it a rural setting. Ms. Watskin opposing a PUD.

LuAnne Owens opposes the PUD. She would like to keep a rural setting and doesn't want to see empty building lots or a half built development.

Bonnie Nolan wishes to retire in Rush, however, it is unreasonable to think that a new subdivision would be a nice retirement place. Rush is not a retirement town and she opposes a PUD.

Jerry Watskin asked for particulars on who was applying for a PUD and what special interest initiated the PUD discussion. Supervisor Udicious acknowledged his request by stating that there have been no formal applications submitted in Rush for a PUD.

Councilman Knab noted that at times the Town Board must set guidelines in the code for the future. PUD's are happening in towns throughout the county and

pressure is being placed on certain owners of pieces of property in Rush to be sold for development. The Town is providing guidelines in preparation for these questions in the future.

Frank Pavia, Attorney for the Town, stated that the purpose of the hearing is to hear residents' comments on the proposed ordinance. Baiting and instigating what is irrelevant to the proposed ordinance is unacceptable at this time.

Greg Terrace concurs with others who have spoken. Mr. Terrance is concerned about the environmental impact and whether or not a in-depth study will be done.

John Morelli stated that the proposed PUD public hearing is a directional tool. The PUD hearing is not an application for an allowing a use, it is a creation of a tool that the Town Board can choose whether or not to act upon. When the Planning Board originally looked at the PUD, they also reviewed the Comprehensive Plan which needed a higher density area program to protect the agricultural land. Mr. Morelli recommends postponing the PUD, protecting agricultural land and then bringing forth both the PUD and protection of agricultural land as it refers to the Comprehensive Plan.

Ted Barnett commented on the current zoning. Councilman Knab clarified the necessity for placing tools in the Town Code to provide guidelines for future items requiring a ruling.

David Vaughn stated that the proposed PUD would affect him directly and he opposes a PUD and does not agree with the need for a high density area in Rush.

Supervisor Udicious thanked everyone for their comments as well as those appointed Planning, Zoning and Conservation Board members in attendance to hear residents' comments. The Town Board will review all comments.

Having no further comments, Supervisor Udicious closed the public hearing on the Proposed Planned Unit Development at 8:00 PM and opened the PUBLIC HEARING of a PROPOSED MORATORIUM ON THE CONSTRUCT OF ANY OUTSIDE WOOD BURNING STOVES AND/OR BOILER UNITS.

Clerk Bucci noted that copies of the Proposed Moratorium on the Construction of any Outside Wood Burning Stoves and/or Boiler Units in the town were available at the sign-in table and that said Notice of Public Hearing was duly published in The Rush Henrietta Post on October 8, 2009, with the same being posted on same date on the Town Clerk's Bulletin Board. Clerk Bucci read the Notice of Hearing for the record.

Councilman Knab gave an overview of the wood burning operation which is a remote piece of hardware set off to the side of a property as a means of bringing heat and hot water to the inside of a home. Nuisance complaints have been received regarding smoke and odor lingering because of these heating devices. Additional studying of these operations is warranted so that the Board can make a knowledgeable determination of its use in the Town of Rush.

Frank Pavia, Esq., added that the proposed 9 month Moratorium is only for the construction of new wood burning stoves and or boiler units and will not affect those units currently permitted and being used in the town.

Councilman Anderson added that legislation, Department of Environmental issues and the United States government incentive in using biomass heating systems need to be considered.

Mr. Udicious opened the floor to comments.

Werner Wandersleben, Sr. stated that for 3-4 years, he burned 2 inside stoves to heat his home. Mr. Wandersleben now heats from an outside stove. He questioned the difference of inside wood burning versus outside wood burning as it relates to smoke in the air. During the first winter that the outside stove was in operation, a neighbor complained of the smoke which blows from west to east. The wood used may have been to blame. The current neighbor complaints come from those to the east. If neighbors from the east complain of smoke, how can smoke from his property be to blame. Mr. Wandersleben, Sr., invited the Code Enforcement Officer Kusse to stay for a lengthy visit at his home while the outside furnace was working. No smoke was witnessed.

Councilman Knab commented that the study conducted would provide an answer.

Resident Werner Wandersleben, Jr., stated that the outside wood stove has been in place for 2 years. By direction of the Zoning Board, Mr. Wandersleben moved the wood stove to an acceptable area on his property and has made the recommended adjustments for its inspection approval. Heating of the entire house including domestic water has a utility cost of \$-0-. The Code Enforcement Officer has visited his property multiple times and has found no evidence of a smoke nuisance. Mr. Wandersleben stated that there is no validated complaint on his outside woodburning device.

A woman from the audience asked what would be the outcome of a moratorium and the result of the study. Attorney Pavia answered that a series of meeting would be held in consideration before proposing a local law to address the

outside woodburning stoves. An additional public hearing for the adoption of such a Local Law would also be required.

Frank Pavia, Esq. stated that the proposed moratorium will not affect residents who currently have a permit for the outside placement of a wood burning stove and/or boiler and the moratorium regulates the construction and operation of new devices.

Resident John Volpe commented on the moratorium and that due to the economy, moving toward heating a home and water by an outdoor wood-burning stove or boiler may be a possibility in the future.

With no additional comments, Supervisor Udicious closed the hearing at 8:15 PM.

OLD BUSINESS Continued:

D. Sign Ordinance Status – Supervisor Udicious requested that comments from the Town Board, with consideration of the public comments received at the September 23<sup>rd</sup> meeting, be submitted to him.

VII. NEW BUSINESS

A. Schedule a Public Hearing date for a Request to Re-Zone Property at 6115 & 6123 Rush-Lima Road – The Town Board scheduled a public hearing on November 18, 2009. Clerk Bucci will publish the public hearing date.

**RESOLUTION #155-09**

Councilman Knab moved to schedule a Public Hearing on November 18, 2009, for the purpose of re-zoning Property at 6115 and 6123 Rush-Lima Road from commercial to residential. Councilwoman Sluberski seconded.

Roll:

Councilman Anderson	aye	
Councilman Doupe	Aye	
Councilwoman Sluberski	Aye	
Councilman Knab	aye	
Supervisor Udicious	aye	carried.

B. Telephone Answering System – Clerk Bucci forward a request to the Town Board for the replacement of the current answering system that has failed. The system is no longer under warranty but needed. Frontier and Tricom, our current service providers were both consulted on costs and 3 cost options were provided to the Town Board. The Town Clerk requests the replacement of the answering system hardware from Tricom in the amount of \$1,375.00.

**RESOLUTION #156-09**

Councilman Anderson moved to approve the purchase of the Tricom answering service hardware in an amount not to exceed \$1,500.00. Councilman Doupe seconded the motion.

Roll:

Councilman Anderson	aye	
Councilman Doupe	Aye	
Councilwoman Sluberski	Aye	
Councilman Knab	aye	
Supervisor Udicious	aye	carried.

#### IV. OPEN FORUM

Christine Nothnagle asked, even though they are available on the town website, whether or not the Planning and Zoning matters and decisions could again be placed in the town newsletter.

Clerk Bucci reported that the newsletter comes out bi-monthly and planning and zoning information decisions are old decisions. Public hearings are placed in the Rush Henrietta Post and The Sentinel.

Ms. Nothnagle further asked if there was no ingress or egress onto the Dorschel property located at the corner of Rush-Scottsville Road and West Henrietta Road because of the proximity to the on-ramp of Route 390.

Supervisor Udicious responded, no. Permission must be granted by the Department of Transportation.

There being no further business, a motion was made by Councilman Knab and the meeting was adjourned at 8:30 PM by common consent of all councilpersons present.

Respectfully submitted,

Pamela J. Bucci  
Town Clerk