

RUSH TOWN BOARD
Minutes of November 18, 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 November 18, 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
	Chuck Steinman	----	Attorney for the Town

OTHERS PRESENT:	Maureen Herbstsommer	----	Resident
	David Sluberski	----	Resident
	Mike & Linda Quinlan	----	Residents
	Andy Zimmer	----	Resident
	Bill Riepe	----	Resident
	Tony Benfute	----	Resident
	Erik Gysel	----	Resident
	James J. Bucci, Jr.	----	Resident
	Larry Commanda	----	Resident
	David Dunn	----	Resident
	AnnMarie Plewak	----	Resident
	Jeanne Bowman	----	Resident
	Jim Sickles	----	Resident
	Robert Kraus	----	Resident
	Jim & Rosemarie Oppelt	----	Residents
Marge & Dick Williams	----	Residents	

I. OPEN FORUM – Supervisor Bill Udicious opened the meeting by informing all of the sign in table and invited them to take a copy of the Rules and Procedures of the Town Board meeting. He then offered the floor for those present to address the board.

Resident David Sluberski asked for the outcome of the meeting with the Monroe County Water Authority regarding the extension of water to residents in West Rush. Supervisor Udicious answered that the meeting had not yet occurred.

II. APPROVAL OF MINUTES

RESOLUTION #161-09

Councilman Knab made a motion to approve the Town Board Minutes of October 28, 2009, as submitted. Councilwoman Sluberski seconded the motion.

Roll:

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

III. APPROVAL OF TRANSFER OF FUNDS

RESOLUTION #162-09

Councilman Doupe moved Be It Resolved, that having audited all the transfers from the unexpended balance of existing appropriations listed on Transfer #11-1 in the amount of \$39,042.79 be allowed for transfers #43 through #52. Councilman Knab seconded the motion.

Roll:

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

Transfer from the unexpended balance of an existing appropriation'(s).

Highway Funds

Transfer	Decrease Appropriation			Increase Appropriation	
Number	<u>Amount</u>	<u>Account</u>	<u>Description</u>	<u>Account</u>	<u>Description</u>
43	5,000.00	DA-5142.1	Highway Administration	DA-5130.1	Machinery
			Capital Outlay		Personal Services
			To cover account shortfall per S. King		
44	2,000.00	DA-5148.4	Services to Other Govt.	DA-5112.4	Road Construction
			Contractual		Contractual
			To cover account shortfall per S. King		
45	12,000.00	DA-5148.1	Services to Other Govt.	DA-5130.1	Machinery
			Personal Services		Personal Services
			To cover account shortfall per S. King		

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46	7,000.00	DA-5112.1	Road Construction Personal Services To cover account shortfall per S. King	DA-5130.1	Machinery Personal Services
47	8,000.00	DA-5112.1	Road Construction Personal Services To cover account shortfall per S. King	DA-5110.1	Maint of Roads Personal Services
48	3,500.00	DA-5148.1	Services to Other Govt. Personal Services To cover account shortfall per S. King	DA-5140.1	Misc Brush/Weeds Personal Services

General Funds

Transfer		Decrease Appropriation		Increase Appropriation	
<u>Number</u>	<u>Amount</u>	<u>Account</u>	<u>Description</u>	<u>Account</u>	<u>Description</u>
49	500.00	A-5010.1	Highway Administration Personal Services To cover account shortfall per S. King	A-5010.4	Highway Administration Contractual
50	160.00	A-7110.1	Parks Personal Services To cover account shortfall per S. King	A-5010.4	Highway Administration Contractual
51	82.79	A-1410.4	Clerk Contractual To cover account shortfall	A-1460.4	Records Mgmt Contractual
52	800.00	A-1220.1	Supervisor Personal Services To cover higher newsletter hours	A1670.1	Central Printing Personal Services

Roll:

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

IV. APPROVAL OF ABSTRACT

RESOLUTION #163-09

Councilman Anderson moved Be It Resolved, that having audited all the claims against funds listed on Abstract #11-1 in the amount of \$19,158.40 be allowed for transfers #1178 through #1238. Councilman Doupe seconded the motion.

Roll:

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

V. CORRESPONDENCE

Memorandum of November 17, 2009, from the Rush Planning Board – Planning Board is in favor of accepting the site development detail proposal submitted by Clough Harbour, Engineers for the Town. However, they would like to meet with the Principal Planner, Walter Kalina, of Clough Harbour before making a final decision on the Comprehensive Plan. At that point, the Planning Board will decide on whether or not to enlist Clough Harbour with modifying the Comprehensive Plan.

Office of General Services (OGS) Letter of November 6, 2009 – Letter to Attorney Pavia enclosing a Deed of Acquisition of the 100 acres of property for attorney approval. On direction of the Town, the attorney will proceed with the acquisition.

Collateral Source Bill signed into Law - Collateral source bill which keeps municipalities from making a double payment has been approved by the Assembly and Senate and signed by Governor Patterson, Laws of 2009, Chapter 494, Part F.

VI. REPORTS OF OFFICERS AND COMMITTEES

Councilman Knab reported that contractor bids on the library roof repair are due November 23, 2009. The hot water system in the court offices has been restored. The Town Hall front steps have been repaired. The Z-mesh for the roof repair will be ordered. The painter has been supplied a Town Hall painting touch-up list.

7:15 PM - PUBLIC HEARING – REQUEST TO REZONE PROPERTY AT 6115 & 6123 RUSH-LIMA ROAD

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

Clerk Bucci read the Notice of Hearing for the record. Notice of Public Hearing was duly published in the Rush-Henrietta Post on November 5, 2009, with the same

being posted on same date on the Town Clerk's Bulletin Board and the town web site.

Supervisor Udicious noted that the two properties are located between the Shiloh Church and St. Joseph's Church on Rush-Lima Road. Previously, the property owner rezoned the properties from residential to commercial seeking commercial occupancy. Marketing attempts were unsuccessful. Now being two owners of the properties, both owners request that the properties be rezoned residential.

Resident Participation:

Steve Saskowski asked what advantages would occur in changing the zoning? Supervisor Udicious speculated, however, he was not knowledgeable of the owners' intents.

Resident AnnMarie Plewak asked what type of advertised commercial properties were the owners marketing; how much land is available; would commercial properties produce revenue for the town? Councilman Anderson noted that, other than stated in the Town Code, there are no restrictions of commercial users. Acreage on both properties is small. Commercial properties can produce tax revenue for the town.

William Riepe asked if there were occupancy differences. Supervisor Udicious stated that the Town Code provides guidelines for both residential and commercial uses and zoning cannot be combined.

Dave Sluberski asked if the properties are structurally sound. Supervisor Udicious directed a response from Gerry Kusse, Code Enforcement Officer. Mr. Kusse stated that both structures have been inspected; however, the cobblestone home is in need of repair.

John Trubee asked if the houses were occupied, available for move-in and whether both properties were contiguous to the other properties? Code Enforcement Officer Kusse stated that the houses are not currently occupied and being move-in ready would depend on their zoning. Supervisor Udicious stated that the properties can offer access to adjacent properties.

Supervisor Udicious stated that voting does not generally occur after public hearings. Comments are always taken into consideration. Pending any further information, a decision on the rezoning may be made at the December town board meeting.

The public hearing was closed at 7:27 PM and the regular meeting continued.

REPORTS OF OFFICERS AND COMMITTEES continued:

Councilman Anderson noted that the Town together with Monroe County Emergency Preparedness had applied to Federal Emergency Management Agency (FEMA) for a grant activity to preserve the dam. The Application was finally favorably accepted in November 2009. The Town is awaiting a meeting date with FEMA to review the terms and conditions of the grant. In order to preserve the dam long-term, a complete process on the up water side is in order.

Councilman Anderson reported on the Genesee Valley Greenway Trail at Lehigh Trail. An advisory committee meeting will be held on November 19th in Rush to set up a maintenance and improvement system for the trail. Representative Deb Curran of the Town of Rush attended the Village of Honeoye Falls meeting on the proposal to extend their trail system.

Councilman Doupe attended the Library Board of Trustees meeting. They discussed the Town Board's involvement in appointing members of the Board of Trustees. Library Director Kirsten Flass provided a survey of local library appointment processes. Town Law provides the authority to the Town Board in making appointments to the Library Board of Trustees.

On behalf of the Recreation Department, Councilwoman Sluberski requested approval for the department to move forward in submitting an application for a mini grant to the Greater Rochester Health Foundation which provides monies for nutritional food items. The Rush Summer program would benefit and all agreed to move forward with the application. Councilwoman Sluberski commented on recent recreation correspondence regarding the opportunity in reserving recreational space at Monica Leary Elementary School. Rush Recreation is given use preference and the miscommunication has been cleared.

Councilwoman Sluberski stated that the Zoning Board of Appeals granted a height variance at 6278 Rush Lima Road for a fence, with conditions.

Code Enforcement Officer Gerry Kusse reported that Phase I of the town's pavilion is nearing completion and the siding installation is scheduled for next week. Power has not yet been provided.

Town Clerk Bucci announced that the swearing in ceremony of new officials for 2010 is scheduled for December 31st at 10 AM and the Organizational Meeting is scheduled for January 4th at 7 PM, both at the Rush Town Hall.

The organizational meeting is a yearly meeting where the pay scales are adopted, annual appointments of employees are confirmed and approvals are made of specific contractual services provided to the town.

With today's economic conditions, the Legislation has adopted a change in Town and County taxes. In 2010, residents will be given an additional option of paying town and county taxes in 4 equal partial payments. Specific guidelines will be provided on individual tax bills.

VII. OLD BUSINESS

A. Sign Ordinance Status – Supervisor Udicious stated that a public hearing was held on September 9, 2009. Previously Councilman Doupe recommended that in order to be consistent with churches, the allowable footage of a farm stands be increased to 16 feet totaling 32 square feet. He also recommended that the square footage of farm stand directional signs be increased to 12 feet per sign.

RESOLUTION #164-09

Councilman Knab made a motion to change the Sign Ordinance for farm stands to 16 square feet, totaling 32 square feet and the square footage of farm stand directional signs to be increased to 12 feet per sign. Councilman Doupe seconded the motion.

Roll:

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

Councilman Knab made a motion to adopt the Town of Rush Sign Ordinance as amended. Councilman Anderson seconded the motion.

Roll:

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

B. Proposed Outdoor Storage of Recreation Vehicles – The Zoning Board has recommended the code remain unchanged. The Planning Board has provided recommendations. Councilwoman Sluberski previously submitted suggested code changes.

Councilwoman Sluberski will provide a proposal of public hearing on changes to the Town Code §120-57G - outdoor parking of recreational vehicles.

Councilman Anderson questions the difference recommended and the ability to enforcement the code.

Supervisor Udicious noted that a mechanism is currently in place for those residents supplying hardship conditions.

A questions and answer session arose as follows:

A resident in the audience stated that he has a corner lot and parks his camper offsite. In years past, he was told that he must pay an application fee, apply for a variance and provide documented hardship conditions. Supervisor Udicious stated that there is a process and he suggested a discussion with the town clerk.

Resident Jim Bucci stated that persons have appeared before the Zoning Board and have been told that variances are not granted.

Resident Linda Quinlan stated that the Zoning Board directed them to apply for a variance and the Chair stated that the Zoning Board does not grant variances.

Councilman Anderson stated that one must meet certain conditions in order to be granted a variance and if those conditions are not met, a variance is not granted.

A resident asked what conditions applied to receive a variance. Councilman Knab noted that hardships and variance guidelines could also be found on the state website.

Councilwoman Sluberski read her memo of recommendations.

Mike Quinlan stated that both towns of Mendon and Henrietta allow recreational vehicles to be parked in driveway.

Supervisor Udicious recommended that further comments be saved for a public hearing. The Zoning Code is available in the Town Clerk's Office.

C. Outdoor Wood Burning Furnaces and/or Boiler Units – A public hearing was held in October 14, 2009, in consideration of a moratorium of new installations of outdoor wood burning furnaces and or boiler units and would not affect existing units or indoor wood burning units or stoves, strictly outdoor units.

Councilman Knab stated that the Board scheduled the public hearing based on resident complaints of noxious fumes and odors by outdoor furnaces. An in-depth search of the town code provided that one is permitted to build a shed, building, etc. in the appropriate setback and have a permitted wood burning furnace or other solid wood appliance installed within it. The same fumes are produced by burning units that are legally used in homes or garages and

that he does not support the moratorium. Board members Doupe, Sluberski, Anderson and Supervisor Udicious also agreed that a moratorium was not necessary.

VIII. NEW BUSINESS

A. Drainage Problem on Five Points Road between houses numbered 16 through 350. Property owners experience surge flooding which produces continued rear yard flooding.

Superintendent King has received proposals from Corneles Engineering and Clough Harbour regarding the drainage and recommends hiring Corneles Engineers to perform the work. The cost associated in correcting the problem will be chargeable to the drainage district.

RESOLUTION #165-09

Supervisor Udicious made a motion to approve the proposal of Corneles Engineering in the amount of \$6,800.00 for correction of the drainage problem on Five Points Road between house numbers 16 though 350. Councilman Anderson seconded the motion.

Roll:

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

B. Dedication of Honey Hill Road to Town of Rush – The road has been inspected by the Highway Superintendent, the Town Engineer has accepted the road based upon the Highway Superintendent's recommendation and all necessary documentation has been supplied to the Town for the dedication.

RESOLUTION #166-09

WHEREAS, on October 27, 2009, the Town of Rush received a letter from the Town Engineer, Clough Harbour & Associates LLP, certifying that Honeoye Hill Road was constructed pursuant to the Town of Rush's design standards and recommending that the Town of Rush accept the dedication of Honey Hill Road; and

WHEREAS, on October 29, 2009, the Rush Town Board received a letter from the Town of Rush Highway Superintendent Steve C. King certifying that Honey Hill Road meets the design criteria and construction specifications required by the bylaws of the Town of Rush; and

WHEREAS, a Short Environmental Assessment Form has been prepared by the Town; and

WHEREAS, the Town Board classified the action as an Unlisted action pursuant to 6 N.Y.C.R.R. §617.2(96) subject to an uncoordinated review; and

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Rush does hereby accept the dedication of public highways the street commonly known as Honey Hill Road, subject to the Town receiving a warranty deed in the county clerk's office and has received a notarized dedication and release of land describing the street and signed by the party releasing the property to the town; and be it

FURTHER RESOLVED, that the Supervisor be, and is hereby, authorized and directed to record the necessary documents relating to public dedication of the aforesaid highway, with the original documents to be returned to and filed permanently with the Town Clerk's Office; and be it

RESOLVED, that the Town Board finds that the action will not include a significant potential environmental impact, and thus issues a negative declaration under SEQRA.

Motion made by Councilwoman Sluberski to accept the road dedication of Honey Hill Road, Rush, New York to the Town of Rush effective immediately. Motion was seconded by Councilman Anderson.

Roll:

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

C. Agreement to Extend Snow and Ice Contract with NYSDOT – The agreement was reviewed and recommended by Steven King, Superintendent of Highways.

RESOLUTION #167-09

Councilman Knab moved be it RESOLVED that the Supervisor be authorized to sign the annual Extension of Conventional Municipal Snow and Ice Agreement, as amended, with New York State Department of Transportation for the season 2009/2010 for an estimate expenditure of \$80,774.63 for 35.60 lane miles within the Town of Rush. Councilman Doupe seconded the motion.

RESOLUTION #168-09

Supervisor Udicious moved be it RESOLVED, that the Town Board of the Town of Rush hereby approves the surety, form and amount of the official undertaking for the faithful performance of the duties of the Town Clerk and Tax Collector, and Finance Director, as filed in the Town Clerk's Office:

Type of Undertaking: Public Official Liability/Employee Dishonesty
Insurance Company: Firemen's Fund Insurance Co.

Amount: \$250,000.00 – Town Clerk and Tax Collector
 \$125,000.00 – Finance Director

A true copy of this Resolution shall be affirmed to the undertaking to indicate this Board's approval thereon in accordance with the Town Law §25. Councilman Knab seconded the motion.

Roll:

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

IX. OPEN FORUM

Resident Linda Quinlan commented that the relevance of researching the town of Henrietta and Mendon codes is that they are surrounding towns of Rush. There are many violators of §120-57G in the Town of Rush.

Resident Ann Marie Plewak asked if the town was knowledgeable of any surveying taking place at her property along Honeoye Creek. Surveyors have been taping the area. Supervisor Udicious stated that the town is not performing any surveyor work in that area.

Dave Sluberski asked when the library roof would be fixed. Councilman Knab answered that the specifications were advertised and a contractor will be selected. Materials needed would be available within two weeks of ordering and work could then be commenced.

Mr. Sluberski further asked what additional highway costs would be incurred with the dedication of Honey Hill Road to the Town. Superintendent King explained that all residents are provided with highway services. Once a road becomes adopted, it is added to the dollar amount reimbursed through Consolidated Local Street and Highway Improvement Program (CHIPS). Honey Hill is approximately 500 feet of highway and will cost approximately \$88.00 a year. The town-wide contingency in the 2010 budget will cover additional costs when required.

X. EXECUTIVE SESSION

Supervisor Udicious moved to adjourn the meeting to Executive Session at 8:20 PM to discuss a litigation and personnel matter.

Supervisor Udicious returned to the regular session of the meeting at 9:02 PM.

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There being no further business, a motion was made by Councilman Knab and the meeting was adjourned at 9:02 PM by common consent of all councilpersons present.

Respectfully submitted,

Pamela J. Bucci
Town Clerk