

RUSH TOWN BOARD  
Minutes of November 23, 2010  
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 23, 2010, at the Rush Town Offices, 5977 East Henrietta Road, Rush, New York. Everyone present participated in the Pledge of Allegiance.

PRESENT:	Richard Anderson	-----	Councilman, Deputy Town Supervisor
	Thomas Doupe	-----	Councilman
	William Riepe	-----	Councilman
	Lisa Sluberski	-----	Councilwoman
	William Udicious	-----	Town Supervisor
	Pamela Bucci	-----	Town Clerk/Collector
	Frank Pavia, Esq.	-----	Attorney for the Town

OTHERS			
PRESENT:	Dave Sluberski	-----	Resident
	Mark David	-----	Highway Superintendent, resident
	Jim Bucci	-----	Resident
	Gerry Kusse	-----	Code Enforcement Officer, Resident

I. OPEN FORUM – Supervisor Udicious opened the meeting and offered all the opportunity to speak before the Board.

II. APPROVAL OF MINUTES

**RESOLUTION #168-2010**

Councilwoman Sluberski motioned to approve the November 10, 2010, Minutes of the Town Board as written. Councilman Doupe seconded the motion.

Roll:

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

III. APPROVAL OF TRANSFER

**RESOLUTION #169-2010**

Councilman Anderson stated, Be It Resolved, that having audited all the unexpended balances of existing appropriations in the Highway Fund, I move that transfer #46 in the amount of \$4,148.59 be allowed. Councilman Doupe seconded the motion.

*Transfer from the unexpended balance of an existing appropriation  
General Fund*

Transfer #	Amount	Account	Description	Account	Description
46	4,148.59	DA-5110.1	Machinery contractual	DA-5130.1	Machinery - Personal Services

Transfer to reallocate Highway budget per Mark David

Roll:

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

IV. APPROVAL OF ABSTRACT

**RESOLUTION #170-2010**

Councilman Anderson stated, Be It Resolved that having audited all the claims against the funds listed on Abstract #11-2, for vouchers #1280 through #1331 be allowed in the amount of \$15,027.17. Councilman Riepe seconded the motion.

Roll:

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

V. CORRESPONDENCE

Memorandum of November 15, 2010, sent to the Town Board regarding their endorsement and recommendation for approval of the updated construction detail prepared by Clough, Harbour & Associates. Supervisor Udicious requests that the Code Enforcement Officer forward the Board a copy of the detail so that a decision can be made.

VI. REPORTS OF OFFICERS AND COMMITTEES

Councilman Anderson reported that next Friday he would be attending a workshop on Preparing the Environment of the Genesee River; referring to grant opportunities. A report will follow.

Councilman Riepe is investigating the posted hunting signs for the town property. They must say Private Property.

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Councilman Anderson added that New York State, under the Department of Environmental Conservation Law, all property is assumed posted whether or not there are signs or not.

Councilman Riepe requested that Attorney Frank Pavia investigate posting of park property.

Councilman Doupe had no report.

Councilwoman Sluberski had no report.

Building Inspector/Code Enforcement Officer (CEO) Gerry Kusse reported that the town equipment building will be completed by year end.

Supervisor Udicious noted that CEO Kusse completed the NYS Building Inspector course and state mandated test; the town continues to be certified.

Supervisor Udicious added that the equipment building will provide space for medical equipment that is loaned through the Lions Club in Rush. Attorney Pavia will draft a contract between the Town and the Rush Lions Club International for the use of the space. Councilman Anderson added that if the Town charged \$1.00 for the nominal agreement fee, he would donate the money.

Highway Superintendent David reported that he has hired a Machine Equipment Operator and a Dispatcher. The Highway Department has a full crew.

Town Clerk Bucci reported that the clerk's monthly report was submitted with revenues of \$3,187.39 for the month of October, specifically from buildings and recreation departments.

Freedom of information requests have been received for town and county and school tax rates, 2005 through 2010, for parcel located at 27 Boulder Creek. An additional request was an extensive public access to records for all town employees, including years past, and is currently being compiled.

Supervisor Udicious reported that sales tax revenues of \$60,000 for the 4<sup>th</sup> quarter have been received. The town has consistently budgeted conservatively within the \$200,000 to \$210,000 mark for the year.

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PUBLIC HEARING – 7:15 PM – Amending Section 28 of the Rush Town Code to establish new rules and regulations concerning dog control consistent with the amendments made to the New York State Agriculture and Markets Law.

Town Clerk Pamela Bucci read the Notice of Publication in its entirety. The Notice was published in both the Henrietta Post and the Sentinel on November 18, 2010. The notice was also posted on the town clerk's bulletin board and the town website.

Supervisor Udicious explained that NYS is transferring additional responsibility of dog control and responsibilities to municipalities' town clerk duties and the laws must be incorporated into the Town Law.

Resident Dorothy Bayer requested that more residents be advised of the changes in the law. Mrs. Bayer raises dogs for show, has a NYS kennel license, and is concerned of the changes in the law especially the increase in license fees and the dissolving of purebred licenses. If the town is seeking limiting the number of dogs, she requested that there be no limit so that she may have as many dogs as she wishes. They are not a nuisance. Mrs. Bayer does not want to lose what she loves and requested that the Town Board defer any changes to the current law until further community input was received.

Mrs., Bayer provided a credentials list to the Town Clerk.

Town Clerk Bucci noted that the Town Board has decided not to include purebred licenses in the Town Law. Kennel permit requests continue to be available through a Zoning Board variance and/or a Planning Board approved building application. A kennel license is not provided through the Agriculture and Markets Law or the Town Code.

Attorney Frank Pavia added that NYS has placed the obligation onto the localities and the Town is required to adopt a law that it must be acted upon by January 1, 2011. Amendments can be made at any time during the course of the year.

Town Clerk Bucci stated that in the proposed law, every year, each dog owned that is spayed or neutered will cost \$9.00; each dog owned that is un-spayed or unneutered will cost \$18. There will no longer be a set fee for a purebred license. The increase in charges will offset administrative costs as well as

provide for an accessible state-wide-database that was previously provided by New York State. The proposed law does not limit the number of dogs.

As there were no further comments, Supervisor Udicious moved to close the public hearing and resume the regularly scheduled meeting at 7:40 PM.

REPORTS OF OFFICERS AND COMMITTEES continued:

Supervisor Udicious contacted the Town and Village Court liaison regarding new judge training sessions. Appointed and elected justices, unless they are licensed attorneys, are required to attend training over four weekends in April and July before they can sit on the bench. Since Justice Paula Anderson will be ending her term on December 31, 2010, there will be a four month period where Rush will have only one justice. A neighboring court justice can be assigned to assist in the interim; however, Justice Henry Kirch has offered to cover the entire period.

The Board will conduct judge interviews after December 7<sup>th</sup>. Since a judge cannot sit on the bench until trained, Supervisor Udicious reviewed appropriate appointment and payment timeframes. Councilman Anderson stated that traditionally, a judge is appointed the first of the year to begin becoming familiar with the operations of the office and then attends training.

#### VII. OLD BUSINESS

A. Revisions to Structures Provision (Town Code Section 120-18) – Supervisor Udicious stated that a public hearing was conducted and no further comments were received.

#### **BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF RUSH AS FOLLOWS:**

**WHEREAS**, the Town of Rush seeks to amend Section 120-18 of the Code of the Town of Rush (the "Code") to set the maximum height of structures at 35 feet, consistent with the maximum height of buildings as set forth in Section 120-16 of the Code; and

**WHEREAS**, the Town Board held a public hearing on November 10, 2010 regarding the proposed amendment to Section 120-18 of the Code.

**NOW, THEREFORE, BE IT RESOLVED**, that the adoption of Local Law #4 of 2010 is exempt from review under the New York State Environmental Quality Review Act pursuant to 6 N.Y.C.R.R. § 617.5(c)(27); and it is further

**RESOLVED**, that the Town Board of the Town of Rush does hereby adopt Local Law #4 of 2010, as attached hereto, and entered into the minutes of the meeting of the Town Board of the Town of Rush held on the 23<sup>rd</sup> day of November, 2010; and it is further

**RESOLVED**, that Local Law #4 of 2010 shall amend Section 120-18 of the Code of the Town of Rush as applicable; and it is further

**RESOLVED**, that said 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; and it is further

**RESOLVED**, that notice of this 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.

**RESOLUTION # 171-2010**

The adoption of the foregoing Resolution was moved by Supervisor Udicious, seconded by Councilman Anderson, and duly put to vote, which resulted as follows:

Roll:

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

B. 2011 Town Budget – The 2011 Preliminary budget was adopted on November 10, 2010, providing a tax rate of \$4.39 per \$1,000 of total assessed value (TAV), which is unchanged from 2010. Copies are available in the Town Clerk's Office.

C. Energy Audit (1911 Rush-Scottsville Road) Results – Audit results were reviewed with Supervisor Udicious and Building Inspector Kusse. Copies were distributed for review to the Town Board. Councilman Anderson requested that a cost package of window replacement be provided. The ultimate recommendation is a high efficiency gas-operated boiler.

VIII. NEW BUSINESS

A. Rental Policy of Pavilion – Attorney Pavia prepared a Memorandum outlining issues to be addressed regarding consumption of wine and beer in town parks on town property. An amended Pavilion Agreement was also provided highlighting areas that must be included in the Agreement if alcohol consumption were to be provided on town park property.

Councilwoman Sluberski asked for verbiage to be added to allow specific areas within the pavilion/park for consumption.

Attorney Pavia will make all recommended revisions to the Pavilion Agreement and forward it to the Supervisor.

**RESOLUTION #172-2010**

Supervisor Udicious moved that the Pavilion Rental Agreement be approved, pending attorney changes that were discussed. Councilwoman Sluberski seconded the motion.

Roll:

Councilman Anderson	nay	
Councilman Riepe	aye	
Councilman Doupe	aye	
Councilwoman Sluberski	aye	
Supervisor Udicious	aye	carried.

B. Internet Connection – Before a decision to convert to a town-paid Time Warner cable is made, Councilman Doupe will contact Time Warner regarding a secured server and its ability to encrypt town documents. Town Clerk Bucci will provide the contact information.

C. Monroe County 2010-2011 Snow & Ice Control Services – Highway Superintendent Mark David supplied the Monroe County Agreement for Town Board approval. Rates are standard.

**RESOLUTION #173-2010**

Councilman Anderson motioned to authorize the Supervisor sign an Agreement with Monroe County for 2010-2011 Snow & Ice Control Services. Councilwoman Sluberski seconded the motion.

Roll:

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

IX. OPEN FORUM

Code Enforcement Office Kusse commented that there is currently one wind tamer in town. The resident has had no success with generating power, stating that it will not charge his tractor battery.

X. EXECUTIVE SESSION

**RESOLUTION #174-2010**

Supervisor Udicious motioned to close the regular meeting to continue a resident legal matter involving the Monroe County Water Authority. All councilpersons present consented to proceed.

There being no further business, a motion was made by Councilman Doupe and the meeting was adjourned at 8:06 PM by common consent of all councilpersons present.

Respectfully submitted,

Pamela J. Bucci  
Town Clerk