

RUSH TOWN BOARD
Minutes of April 24, 2013

A regular meeting of the Rush Town Board, County of Monroe, was called to order by Supervisor Richard Anderson at 7:00 PM on April 24, 2013, at the Rush Town Hall, 5977 East Henrietta Road, Rush, New York. Everyone present participated in the Pledge of Allegiance.

PRESENT:	Richard Anderson	-----	Supervisor
	William Riepe	-----	Councilperson, Deputy Town Supervisor
	Kathryn Steiner	-----	Councilperson
	Cathleen Frank	-----	Councilperson
	Daniel Woolaver	-----	Councilperson
	Pamela Bucci	-----	Town Clerk
	John Mancuso, Esq.	-----	Attorney for the Town

OTHERS

PRESENT:	Mark David	-----	Highway Superintendent, Resident
	Ansgar Schmid	-----	Resident
	Kathryn Hankins	-----	Resident
	Gerald Kusse	-----	Building Inspector, Resident
	Wendy Kuhn	-----	Resident
	Carol Barnett	-----	Resident

I. OPEN FORUM

Supervisor Anderson opened the floor to anyone wishing to address the Town Board. He stated that all comments should be brief and any questions asked would be answered at that time or after research, responded to at a later date.

Resident Carol Barnett stated that a farming operation could not be considered a private nuisance but a sound agricultural practice. She asked whether or not the proposed Right to Farm Law would protect the town against industrial farming. She suggested the Town Board review a more stringent law such as ones in the State of Vermont.

Supervisor Anderson stated that state is regulated by New York State Agricultural and Markets ("NYS Ag & Markets"). The limitations of what takes place on an agricultural basis and how the town interfaces with them are regulated by NYS Ag & Markets. The town has received advice from Albany regarding nurseries versus residential areas. New York State may or may not be as clear as regulations in Vermont.

Attorney John Mancuso stated that local agricultural businesses are all subject to NYS Ag & Markets regulations. Certain operations cannot be restricted if the State has deemed them permitted uses. There are different types of Right to Farm laws. Policies adopted in the Right to Farm Law are driven by the Board decisions of a balance between residential and farming for the betterment of the town. Attorney Mancuso added that generically speaking, the Right to Farm Laws promote agricultural activity. While they promote agriculture, the laws written are prudent of residential use. Flexibility would be provided, however, NYS Ag & Markets supersedes town laws.

Resident Kathryn Hankins stated that she disagrees. She believes that provisions within the Right Farm Law should forewarn developers and residents coming into the community that there may be farming at any time in the future next to them. Mendon and Sweden have Right to Farm Laws.

Supervisor Anderson stated that the reason in having a Right to Farm Law is based on the recommendations of the Farmland Protection Planning Grant. Two recommendations from the State were to develop a Right to Farm Law and form an Agricultural Advisory Committee and that committee is still being formed.

II. APPROVAL OF MINUTES

RESOLUTION #90-2013

Councilperson Riepe moved to approve the April 10, 2013, Minutes as presented by the Town Clerk. Councilperson Frank seconded the motion.

Roll:

Councilperson Riepe	aye	
Councilperson Steiner	aye	
Councilperson Frank	aye	
Councilperson Woolaver	aye	
Supervisor Anderson	aye	carried.

III. TRANSFER OF FUNDS

Supervisor Anderson noted that transfers were not necessary.

IV. APPROVAL OF ABSTRACT

RESOLUTION #91-2013

Councilperson Steiner moved Be It Resolved, that having audited all the claims against the funds listed on Abstract 4-2 (#8), for vouchers #376 through #429, be allowed for payment in the amount of \$23,654.24. Councilperson Riepe seconded the motion.

Roll:

Councilperson Riepe	aye
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Councilperson Steiner	aye	
Councilperson Frank	aye	
Councilperson Woolaver	aye	
Supervisor Anderson	aye	carried.

V. CORRESPONDENCE

American Legion Post Boy Scout Troop 334 - Supervisor Anderson provided an update to the last correspondence. Boy Scout Troop 334 will be placing flags on graves at the Pine Hill Cemetery on May 18th. Anyone wishing to participate may. Supervisor's Secretary Valerie Mertsock has placed this information on the town website.

NYS Department of State Monitor of Cemeteries – Supervisor Anderson received a letter from Cynthia Craig regarding the North Rush Cemetery located on Rush Scottsville Road next to the Moore farm. The cemetery is independent of the town, however, and there was a previous trustee of the cemetery. The objective is to add 3 members on their Board and re-establish the cemetery and its accountability.

The Town must mow cemeteries that are deemed officially abandoned at least twice per year. The Town's Highway crew maintains the Rush cemeteries year round. Pine Hill and North Rush Cemetery are private.

Monroe Community College Shooting Training Schedule - Supervisor Anderson stated that a revised shooting schedule has been received and posted.

Planning Board Drainage Easement Memorandum – Supervisor Anderson has received a request from Planning Board Chair John Felsen regarding clarification of drainage easements. The Town Attorney, Town Engineer, Highway Superintendent Mark David and the Supervisor will be establishing a protocol to better define the requirements in establishing the drainage easements.

Response to Resident Harriet Cook - Supervisor Anderson stated that in order to clarify some specifics of the zoning code, Resident Harriett Cook was provided an outline of uses in commercial and industrial districts within the Town regarding the Turner/Hansen application from Deputy Town Clerk Meribeth Palmer.

Resident Robert Kraus correspondence - Supervisor Anderson read aloud a letter from Robert Kraus in support of the Right to Farm Law, however, he suggests that additional information should be obtained. He also requests that the Right to Farm Law approval be delayed until a Farmland Advisory Committee is established and the Committee has reviewed the proposed law.

VI. REPORTS OF OFFICERS AND COMMITTEES

Councilperson Riepe attended the Fire Commissioners Meeting with no outstanding report. Informal discussions were presented at the Planning Board meeting.

Councilperson Steiner stated that the Recreation Agricultural Citizens Committee will be meeting next week. Their report will be available at a later date.

Councilperson Frank reported that she attended the Library Board of Trustees meeting. They profited over \$4,000 from the Friends Night Out event, the Book Sale begins April 27 for one week and there are 3 summer concerts planned. Councilperson Frank will be attending training sessions at Houghton College on May 8th. The Town IT audit project is progressing.

Councilperson Riepe requested that the Library Board of Trustees place Minutes on their website on a regular basis.

Councilperson Riepe noted that the monthly report from Recreation Supervisor Patricia Stephens requested future Fall Festivals be held at the town-owned BOCES properties. Councilperson Steiner stated that it may be a possibility of a long-term goal.

Councilperson Woolaver attended the Zoning Board of Appeals meeting wherein the Turner application was adjourned to May 9th. Some of the audience present were disturbed that there was no forewarning of an adjournment. The Harding subdivision was discussed as well as an informal discussion of commercial vehicle storage.

Supervisor Anderson stated that the Turner Zoning Board application (West Henrietta Road) was postponed last minute by the Turner's attorney. Once an application is submitted, a 62 day clock begins before a determination or withdrawal must be made. The town's legal team has advised the applicant's attorneys of the timeframe, having only 1 more scheduled calendar meeting day available before a withdrawal must be made.

Highway Superintendent Mark David reported that his department has started the brush pick-up. Grinding contractors will then be contacted.

Code Enforcement Office Gerald Kusse had no report.

Town Clerk Pamela Bucci reported that applications for the gardener position have been received and she will soon be conducting interviews. She will be attending continued officials training with Councilwoman Frank on May 8th.

VII. OLD BUSINESS

A. Hydrofracking Moratorium Update – Supervisor Anderson stated that the Hydrofracking Moratorium has been extended. The Town of Lima has also extended their Moratorium. Supervisor Anderson has coordinated discussions between Attorney Steinman and Mr. Slodje to understand state law and the differences between conventional versus unconventional and vertical versus horizontal drilling. They will be providing suggestions for the most easily regulated and expeditious process in order to move forward. A package will be put together and provided to all Boards for a month's worth of review and input.

VIII. NEW BUSINESS

A. Highway Roof Repair Quotes – Supervisor Anderson stated that the Highway roof has been leaking and money has been budgeted to repair it. Highway Superintendent Mark David has gathered 3 quotes submitted to the Town Board for review. Superintendent David requested an award to Elmer W. Davis, Inc., 1217 Clifford Avenue, Rochester, New York 14621 for the roof job.

Councilperson Steiner asked if the repair would be complete in 30 days. Superintendent David believed that to be their intent and payment will not be forwarded until the work is complete.

Superintendent David stated that additional quotes were not required, however, the quote received is part of the Monroe County bidding process and per New York State law, towns may "piggyback" on other county associations and school districts' pricing. Budgeted monies amount to \$15,000, however, a warranty consideration was not included in the initial budget. Due to warm weather, the Towns snow & ice account has a surplus and funds will be transferred from that account to complete the expense.

RESOLUTION #92-2013

Supervisor Anderson moved to approve Superintendent Mark David's acceptance of Elmer W. Davis, Inc., 1217 Clifford Avenue, Rochester, New York 14621 bid for an amount of \$19,788.00, \$15,000.00 of which will be covered through Highway account A-5132.4. Councilperson Riepe seconded the motion.

Roll:

Councilperson Riepe	aye
Councilperson Steiner	aye
Councilperson Frank	aye

Councilperson Woolaver aye
Supervisor Anderson aye carried.

B. Confirm Scheduled Date of Public Hearing for the Right to Farm Law - Supervisor Anderson confirmed that Town Clerk Pamela Bucci has set a date for the public hearing on the proposed Right to Farm Law on May 8, 2013, at 7:15 PM at the Rush Town Hall. A legal notice has been sent to the Sentinel and Henrietta Post for publication. All persons will be provided an opportunity to voice their opinion. A final decision cannot be made on the Local Law until Monroe County Planning and Development has replied to our referral.

IX. OPEN FORUM –

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

Resident Kathryn Hankins stated that the Rush Lions Club wished to have their loan closet availability posted in the next town newsletter and they also requested a repair of the Town Commons gazebo faucet. Town Clerk Pamela Bucci stated that she would place a reminder in the Town Newsletter and all persons requested that loan closet services are provided contact information. Supervisor Anderson will discuss the gazebo faucet with Maintenance Dick Schneider.

X. ADJOURNMENT

There being no further business, the meeting was adjourned by Supervisor Anderson at 7:45 PM and approved by common consent of all councilpersons present.

Respectively submitted,

Pamela J. Bucci
Town Clerk