

Rush Town Board
September 26, 2007

A regular meeting of the Rush Town Board was held on September 26, 2007 at the Rush Town Offices, 5977 East Henrietta Road and was called to order at 7:00 p.m.

Present: Councilman Donald Knab
Councilman Thomas Doupe - excused late arrival
Councilwoman Lisa Sluberski
Supervisor William Udicious

Absent: Councilman Richard Anderson - excused

Others: Frank Pavia, Attorney for the Town of Rush
Rufus Falk, Assessor
Gerald Kusse, Code Enforcement
Jack Mould, Library Board of Trustees
Rick Spencer, Rush Mendon Road

I Open Forum

Jack Mould, President, Library Board of Trustees, thanked the Town Board for their support during the budget process. The Board stated that the library was well prepared to discuss their budget and that was appreciated.

II Minutes, September 12, 2007

RESOLUTION #144

Councilman Knab moved that the minutes of the regular meeting of September 12, 2007 be approved as presented. Councilwoman Sluberski seconded the motion.

Roll: Councilman Knab aye
Councilwoman Sluberski aye
Supervisor Udicious aye carried.

III Approval of Abstract

RESOLUTION #145

Councilman Knab moved BE IT RESOLVED, that having audited all the claims against the funds listed on the abstract, I moved that all claims in the amount of \$48,242.12 be allowed for vouchers #935 through #992. Councilwoman Sluberski seconded the motion.

Roll: Councilman Knab aye
Councilwoman Sluberski aye

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Supervisor Udicious aye carried.

IV Correspondence

1.NYS Office of Children and Family Services re:
termination of services

Supervisor Udicious stated that he had just received this letter inviting the town and others to a meeting on October 2, 2007 to discuss the cut off of services to a number of adjacent properties on November 3, 2007.

2.The first report from the Fire Marshal and his request for the board to let him know if they wish any additional information.

V Reports of Officers and Committees

1.Town Board - Councilman Knab stated that the parking lot lights have all been fixed and that spare parts will be on hand for any future needed repairs. Also the gutter proposal will be ready next week along with a recommendation on the heat tapes along the roof.

Councilwoman Sluberski reported that the fall festival was a success and that the battle of the bands will be rescheduled for some time in the spring and be run as a separate event. An email from Recreation Supervisor Stephens concerning the splitting of profits from the face painting was mentioned. The matter will be referred to the attorney for the town for its legality and the matter will be discussed at the next town board meeting.

Councilwoman Sluberski also reported that the Zoning Board has discussed the matter of whether a wind turbine was a structure or not. They also were still waiting for a determination on the reading of books and magazines as meeting the education requirements for the board. Attorney Pavia will resubmit his written opinion on the subject to the ZBA.

The ZBA feels that they are not a legislative board and that the request for an amendment to the Zoning Ordinance on PODs and similar containers should come from the Town Board.

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2. Assessor - Assessor Falk stated that the town had received again an award from NYS Real Property for maintaining fair assessments on property within the town.

IV Old Business

1. Status of Projects -

a- Rezoning Application for James Volpe - referred onto the Planning Board for their review and comment

b- Drainage petition for Rush View Heights - forwarded to Planning Board for comment

c- Rental of 1911 Rush Scottsville Road - Marsh Properties has cleaned up the property by painting and cleaning carpets. One apartment has been rented for October occupancy.

d- Sale of Hart's Field - no buyers yet but there are two parties very interested but still trying to obtain financing.

e- Audit of Departments - Court and Finance Departments have been finished and Library is underway. No reports issued yet.

f- Parking Lot lights - repairs are completed.

VII New Business

1. Tentative Budget for 2008 - The Tentative Budget for 2008 has been given to the Town Clerk and copies have been placed in the Board member's boxes. A legal notice for the public hearing on the Preliminary Budget on October 10, 2007 has been placed in the legal papers and copies of the Preliminary Budget for 2008 are available to review in the Town Clerk's office and the Library.

2. Certificate of Amendment to the Certificate of Incorporation of the Rush Fire Department - Attorney Pavia explained that since the original Certificate of Incorporation for the Rush Fire Department had been approved by a Town Board resolution in the 1930's that any amendment to the Certificate of Incorporation would also require a Town Board Resolution. Furthermore, Attorney Pavia explained that the original incorporation papers did

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not specify the additional information needed to qualify the organization as a 501 (c) (3) exempt organization under the federal tax code.

The United Way has contacted the Rush Fire Department to explain they are in jeopardy of losing tax deductible funds if they do not meet the criteria of 501(c)(3) status of the Internal Revenue Code as a charitable not for profit organization. The necessary amendment to the Fire Department's Incorporation would provide a clearer explanation of the department's purpose and indicate that they were a not for profit corporation, consistent with the 501 (c) (3) requirements.

Attorney Pavia stated that it may also be necessary for a state judge to rule on this action but that possibility was not immediately clear.

RESOLUTION #146

Councilman Doupe moved that the following certificate of amendment be made to the Certificate of Incorporation of the Rush Fire Department, Inc.:

Under Section 803 of the Not for Profit Corp. Law

First: The name of the corporation is: Rush Fire Department.

Second: The date of filing of the certificate of incorporation with the Department of State is: May 9, 1930.

Third: The law the corporation was formed under is: Membership Corporation Law.

Fourth: The Corporation is a corporation as defined in Section 102(a)(5) of the Not for Profit Corporation Law. The corporation is a Type B Corporation. If the corporate purposes are being enlarged, limited or otherwise changed, the corporation shall be a Type B Corporation.

Fifth: The amendment effected by this certificate of amendment is as follows: Paragraph Second of the Certificate of Incorporation relating to the purpose of the

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corporation is hereby amended to read in its entirety as follows:

SECOND: The particular objects for which the corporation is to be formed are: the prevention and extinguishment of fires, the preservation and protection of property from fire, the purchase and maintenance of all suitable apparatus and equipment and the sale of such thereof as is not useable; the acquisition, maintenance and sale of real and personal property and to provide proper quarters for such fire apparatus and equipment and for the headquarters of the members of this corporation.

Said organization is organized exclusively for charitable, religious, educational, and scientific purposes, including for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(3)(c) of the Internal Revenue Code, or corresponding section of any future federal tax code.

No part of the net earnings of the organization shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the organization shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the purpose clause thereof. No substantial part of the activities of the organization shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the organization shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provisions of this document, the organization shall not carry on any other activities not permitted to be carried on (a) by an organization exempt from federal income tax under section 501(3)(c) of the Internal Revenue Code, or corresponding section of any future federal tax code, or (b) by an organization, contributing to which are deductible under section 170(c)(2) of the Internal Revenue Code, or corresponding section of any future federal tax code.

Upon the dissolution of the organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or

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shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the organization is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

Sixth: The Secretary of State is designated as agent of the corporation upon whom process against it may be served. The address to which the Secretary of State shall forward copies of process accepted on behalf of the corporation is : Robert J. Faugh, 1971 Rush Mendon Road, Rush, NY 14543-9705.

Seventh: The certificate of amendment was authorized by a vote of a majority of the members at a meeting. Councilwoman Sluberski seconded the motion.

Roll: Councilman Knab aye
Councilman Doupe aye
Councilwoman Sluberski aye
Supervisor Udicious aye carried.

3. Town Court upgrade - Supervisor Udicious stated that a quote for \$12,125.00 has been received from Keith Eggleston, who made the latest modifications to the court room, to construct a new judge's bench. The new bench will blend with the woodwork that already exists in the room. There is money in the court budget to cover this cost.

RESOLUTION #147

Councilman Knab moved that the Supervisor be authorized to sign a contract with Keith Eggleston to build a new court judge's bench and install two electrical outlets behind the bench for an amount not to exceed \$13,000.00. Councilman Doupe seconded the motion.

Roll: Councilman Knab aye
Councilman Doupe aye
Councilwoman Sluberski aye
Supervisor Udicious aye carried.

4. Increase exemption qualification amounts - Supervisor Udicious explained that he had been given some information suggesting that medical bills not covered by insurance could be used against income to increase a senior's exemption from property tax liability. This matter will be

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discussed at a later day when the assessor has been able to supply some additional information on the effect of this increased exemption.

Executive Session

Councilman made a motion to move into Executive Session to discuss two personnel matters and pending litigation. Councilman Doupe seconded the motion and the board was all in agreement.

Time: 7:40 p.m.

The Board returned to regular session and adjourned by common consent of the Board members.

Time: 8:40 p.m.

Respectfully submitted,

Linda G. Henry
Town Clerk