

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on December 19, 2018, at 7:30 P.M.

PRESENT:

JOSH COHN, Mayor
SARA GODDARD
EMILY HURD
RICHARD MECCA
JULIE SOUZA
BENJAMIN STACKS
DANIELLE TAGGER-EPSTEIN
Councilmembers

ABSENT:

None

The Council convened at 6:30 P.M. Councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn immediately into executive session at 6:30 P.M. to discuss personnel and litigation matters.

At 7:31 P.M., Councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn the executive session. The regular meeting of the City Council began at 7:31 P.M.

1. Pledge of Allegiance.

Mayor Cohn called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call.

Mayor Cohn asked the City Clerk to call the roll; a quorum was present to conduct official City business.

3. General Announcements.

Councilwoman Hurd announced that there would be free parking in the downtown central business district during the holidays.

4. Residents may be heard on matters for Council consideration that do not appear on the agenda.

There was nothing discussed under this agenda item.

5. Draft unapproved minutes of the Budget Workshop on November 26, 2018, and the Regular Meeting of the City Council held November 28, 2018.

Councilwoman Hurd made a motion, seconded by Councilman Mecca and unanimously carried, to adopt the minutes of the Budget Workshop on November 26, 2018, and the Regular Meeting of the City Council held November 28, 2018.

16. 2019 Participation in the Tree City program.

This item was taken out of order. Melissa Grieco, Rye Sustainability Committee, announced that the City had become a member retroactively of Tree City USA for 2018. There is a growing concern for preserving trees in Rye. She reported that in Rye in 2018, 173 trees were removed and 20 were planted. She said that native trees are valuable, providing a habitat for wildlife. She was hopeful for an upward trend for 2019.

Mayor Cohn signed the City's participation document for the 2019 Tree City USA program.

6. Consideration of a petition by The Miriam Osborn Memorial Home Association to amend the text of the City of Rye Zoning Code to create a new use and development standards for "Senior Living Facilities" in the R-2 Zoning District.

Frank McCullough, McCullough Goldberger and Staudt, spoke on behalf of the Osborn Memorial Home. The Osborn is a senior living development, providing important services. It resides in the R-2 Zoning District. In the early 1990s, the Osborn board of trustees recognized a need to expand and modernize its facilities for Osborn to be able to survive in the future. That action resulted in an application for development, approved by the City in 1993 without a zoning amendment. The City made a determination that it wanted to restrict development based on the plan that the Osborn filed by a series of covenants and restrictions. Mr. McCullough said that one has to ask why it was done that way when the normal process would be to amend the zoning ordinance. In terms of the property, there was no facility in the northeast as comprehensive and as large a development. Further, Mr. McCullough reported that this was the largest development within the City of Rye. The covenants and restrictions have been complied with. However, at this time, Mr. McCullough explained that the applicant was requesting an amendment to the R-2 zoning. The plan would be to maintain the same setbacks and height restrictions. He asked the Council to refer this matter, a zoning amendment, to the Planning Commission for review and comment. He stated that the applicant was not asking the Council to give up any of its jurisdiction, but rather asking to send it to the Planning Commission to have the benefit of the City Planner and the Commission to review, question the applicant, and make a recommendation. This was the first step in a process that will take many months. Mr. McCullough clarified that the application for a zoning amendment does not contain a site plan. Some of the buildings need some rehabilitation. He stated that the applicant cannot propose a site plan until the zoning is set.

Matthew Anderson, CEO of the Osborn Memorial Home, thanked the Council. He spoke about the population of the Osborn and the various programs provided. He reported that the

Osborn was one of the top nursing homes in the state. He explained that the Osborn was looking to the future. There are 850 people employed, with 1600 people that are served. Further, Mr. Anderson said that the Osborn is one of the largest tax payers in Rye. It allows residents to age in place within their units. He described the Osborn as a skilled nursing facility and assisted living facility. Mr. Anderson said that the Osborn as the applicant could not go ahead and plan a future for this campus within the current zoning requirements. It has a need to add more amenity space on the campus, with necessary updates, new fitness facilities, expanded dining areas, among others. He said that Rye Recreation and the Nature Center both utilize the Osborn campus. It is a community place of engagement.

Mr. McCullough said that the relief they were asking for at the meeting was to refer a proposed zoning amendment to the Planning Commission to review and comment. This would start a process. It was not a site plan or proposal, which would require the zoning text to know what the limits are.

Councilman Mecca asked the applicant to help walk the Council through the FAR and other outstanding issues.

Mr. McCullough responded that the Osborn has 160 foot setback around the campus. That number that was taken because of the concern of the Old Post Road and the houses there. As the Osborn developed a plan, there were natural reasons to have large setbacks.

Councilman Mecca asked the applicant to explain the meaning of a 0.5 proposed FAR. Mr. McCullough stated that it was the intent to keep a feeling of open space.

Councilwoman Goddard said that if there was not site plan to look, it was difficult to envision the reason for the change.

Mr. McCullough said that the applicant could show the Council its existing site plan and areas of potential impact.

Mayor Cohn asked if the applicant was suggesting that we go through with the zoning change or that the zoning change be discussed with a Planning Commission.

Councilwoman Tagger-Epstein suggested a possible site walk with the City Council.

Councilwoman Hurd said that the Osborn had special needs, and these changes would require an amendment to the zoning. This is the start of a conceptual future plan for the Osborn.

Councilwoman Souza asked about the primary rationale behind this change. She said it sounded like the applicant was proying to update the facilities, but was to know if part of the goal was to increase capacity as well, and if so, by how much.

Mr. Anderson said that currently, any thoughts about development are all hypothetical. He said that the Osborn site is blessed with space. He ensured that the space would be kept.

Councilwoman Goddard confirmed that the applicant would come back to the Council with a site plan after the matter is referred back from the Planning Commission.

Mr. McCullough said that they could show possible alternatives of coverage and bulk.

Mayor Cohn referred to an earlier conversation in which the applicant showed the Council an option at one point. He asked if that plan had changed. Mr. McCullough replied and clarified that the earlier discussion was primarily a setback conversation.

Mr. McCullough said that he felt they could present on a hypothetical basis with alternatives.

Councilwoman Souza said that doing so would give the Council a visual concept of what the applicant was considering.

Mr. McCullough agreed with Councilwoman Tagger-Epstein's suggestion of a site walk.

Councilwoman Hurd asked in terms of process whether the City had done this before.

City Planner Miller explained that in terms of process, this is the first of a few land use applications involving zoning over the next few months. The concept here is to amend the zoning. Zoning sets forth the zoning and development standards. The Osborn is burdened by a covenant and restriction that was agreed to with the Planning Commission. It was deemed that the uses were consistent with zoning. Now, the applicant would like to accommodate future needs. The Planning commission could shape the answer to the question that asks what a site can be. There are things that the applicant does not yet know. If you allow the zoning to do something, you have to anticipate that an applicant will take advantage of that zoning allowance to the fullest extent. The consideration of a zoning amendment will not dial into a heavy level of detail of what could be.

Councilman Stacks said that based on this zone change, what is actually built could be different several different scenarios. He asked if somebody in the process going to explain the worst case scenario to the Council. City Planner Miller responded that the process would include considering what the full development potential could be.

Councilwoman Goddard stated that there was a desire for more specificity. She said that asking for a zoning change right now implies a plan.

City Planner Miller said that once zoning is enacted, a site plan will need to be adopted by the Planning Commission.

Councilwoman Hurd stated that the current zoning was within a single family residential neighborhood. They are asking for more than what they have now.

Mayor Cohn said that the Council was simply being asked whether Osborn can work with the Planning Commission to flesh it out the zoning change that the applicant was suggesting.

Mr. McCullough stated that the applicant would take the Council through the campus.

Councilwoman Souza asked if other properties would be affected within the zone.

Mr. McCullough clarified that the Osborn would be the only site affected.

Councilwoman Hurd asked if it was not a good idea to be changing the zoning code all the time. She asked if zoning would need to include a health-related institution.

Mayor Cohn asked if the uses would be constrained by zoning.

City Planner Miller responded that they would.

Mayor Cohn suggested that the Council go on the site walk tour.

Councilwoman Tagger-Epstein brought up the issue of traffic and the process for considering any implications.

Mr. McCullough confirmed that the applicant would be happy to do a site walk.

7. Resolution to adopt the 2019 Budget and establish the 2019 tax levy and 2019 tax rate.

Mayor Cohn said that there have been questions about whether specific capital improvements need to be listed in the budget. The capital fund budget allows the Council some discretion. Those items do not need to be listed within the budget.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein, and unanimously carried, to adopt the following resolution:

WHEREAS, on November 7, 2018 the 2019 Tentative Budget was presented to the City Council, and;

RESOLVED, that the tentative budgets and fee schedules as approved by the City Council, are hereby adopted for the fiscal year ending December 31, 2019, and be it further;

RESOLVED, that the City Council does hereby certify to the City Comptroller the 2019 City of Rye tax rate of \$176.76 per \$1,000 taxable assessed valuation and the 2019 City of Rye tax levy of \$24,864,094 and be it further;

RESOLVED, that the City Council does hereby direct the City Comptroller to apportion and extend against each taxable property listed upon the assessment roll at the tax rate certified in this resolution to produce the tax levy certified in this resolution, and to render tax notices for, and receive and collect, the several sums so computed and determined, with interest as provided by law, and any special assessments heretofore authorized and approved.

ROLL CALL

AYES: Councilmembers Goddard, Hurd, Mecca, Souza, Stacks, Tagger-Epstein, Mayor Cohn
NAYS: None
ABSENT: None

8. Resolution authorizing the City Comptroller to make the necessary year-end closing transfers.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein, and unanimously carried, to adopt the following resolution:

RESOLVED, that the City Comptroller is hereby authorized to make the necessary 2018 fiscal year-end budget transfers in City accounts, provided a list of such transfers over \$10,000 is furnished to the City Council after completion of such transfers.

ROLL CALL

AYES: Councilmembers Goddard, Hurd, Mecca, Souza, Stacks, Tagger-Epstein, Mayor Cohn
NAYS: None
ABSENT: None

9. Consideration Resolution authorizing the Mayor to execute an agreement with the Rye Free Reading Room to furnish library services for 2019.
Roll Call

Councilman Mecca made a motion, seconded by Councilwoman Hurd, and unanimously carried, to adopt the following resolution:

RESOLVED, that the Mayor execute an agreement with the Rye Free Reading Room to furnish library services for 2019.

ROLL CALL

AYES: Councilmembers Goddard, Hurd, Mecca, Souza, Stacks, Tagger-Epstein, Mayor Cohn
NAYS: None
ABSENT: None

10. Consideration Resolution authorizing the City Manager to enter into a 5-year Agreement for Emergency Medical Transport with the Village of Port Chester, the Village of Rye Brook and Port Chester-Rye-Rye Brook Volunteer Ambulance Corps. Inc.
Roll Call

City Manager Serrano stated that the ambulance corps had been doing a great job. Councilwoman Tagger-Epstein added that there was an increase that had been talked about for many years and that the ambulance was doing a wonderful job.

There was general discussion regarding the allocation of funding among the various municipalities.

This item was deferred to next regular meeting of the City Council.

11. Public Hearing to amend Chapter 133 “Noise” of the City Code with respect to installations in the public right of way.

Mayor Cohn explained the proposed amendments address how the intensity of noise is measured for installations in the right of way. They are limited to 45 decibels measured at a distance of 3 feet.

Councilwoman Souza made a motion to open the public hearing, seconded by Councilman Stacks.

Dr. Jeff Dorfman, Rye Resident, thanked and addressed the Council. He said that he wanted to speak about Chapter 133. He said that section 133-1 of the Rye City Code does prohibit unnecessary noise. He said he would like to see that that Mayor and City Council support the Rye Police Department in enforcing the law against unnecessary noise.

The public hearing considering Chapter 133, “Noise,” was continued to the next meeting.

12. Public Hearing to amend Chapter 196 “Wireless Telecommunications Facilities”, the City’s wireless code.

Mayor Cohn announced that there would be a special meeting of the City Council on December 27, 2018 on the issue. The City is trying to be responsive to an FCC regulation that limits municipal power with regard to telecommunications. The order would be effective January 14, 2019, and so the City needs a resolution with regard to telecommunications by then. He said that the City needs to take whatever steps it deems appropriate to protect the City’s jurisdiction. The City is focused in particular on small cells. One guiding principle that the FCC has underscored for us is that we cannot be prohibitory. The goal is to protect Rye generally, concerning aesthetics, community character and property value. The City is focused on protecting the residential right-of-way, which has been the target of Crown Castle.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein, to open the public hearing.

Dr. Dorfman, Rye resident, said that nodes can be related with cell phone transmissions and emergency radios.

Paul Benowitz, 29 Ellsworth Street, asked the Council if they were planning on voting tonight. Mayor Cohn said that the public hearing would at least remain open to the December 27 meeting. Mr. Benowitz said that in Scarsdale, the municipality told Crown Castle where to put the nodes. He said he was supportive of the law.

Sam Burruano, Rye resident, said that the right-of-way is a franchise controlled by the City of Rye. He asked if that was true across the country with regard to the FCC. Mayor Cohn responded that he believed that the right-of-way is City property but the City grants franchises within the right-of-way. He confirmed that it was a national issue.

Trish Agosta, Rye resident, asked about the National League of Cities that was hoping to stay or overturn the FCC ruling. She asked about timing. Mayor Cohn responded that it was unclear about exact timing, but that the request for a stay would need to be decided prior to January 14, 2019.

The public hearing continued to the next meeting.

13. Resolution authorizing the City Engineer to submit a request to the Westchester County Board of Legislature to transfer select properties along Locust Avenue, Graham Court, Clinton Avenue, Central Avenue, Woodcrest Road, Club Road, and Sunset Lane from the Blind Brook Sewer District to the Mamaroneck Valley Sewer District in connection with the installation of a new sewer pump station at the corner of Clinton Avenue and Central Avenue.

Mayor Cohn explained that this would allow the City to put in a new sewer line with reasonable efficiency.

Councilwoman Mecca made a motion, seconded by councilman Stacks and unanimously carried, to adopt the following resolution:

RESOLUTION

Requesting that Select Properties along Locust Avenue, Graham Court, Clinton Avenue, Central Avenue, Woodcrest Road, Club Road, and Sunset Lane be Transferred From the Blind Brook Sewer District to the Mamaroneck Valley Sewer District In Connection With the Construction of New Pump Station at Clinton Avenue and Central Avenue.

WHEREAS, on May 23, 2018, the Rye City Council adopted a resolution authorizing the design, and construction of a new pump station located at Clinton Avenue and Central Avenue; and

WHEREAS, the sewer project requires the transfer of properties from the Blind Brook Sewer District to the Mamaroneck Valley Sewer District; now therefore be it

RESOLVED, that the Rye City Council authorizes the City Engineering Department to provide a letter requesting Westchester County Board of Legislature approval to

APPROVED MINUTES – Regular Meeting - City Council
December 19, 2018 - Page 9

transfer the following 60 properties from the Blind Brook Sewer District to the Mamaroneck Valley Sewer District:

Parcel ID (S/B/L)	Address
146-6-2-19-2	3 GRAHAM CT
146-6-2-47-1	47 CLINTON AVE
146-6-2-47-2	49 CLINTON AVE
146-6-2-19-3	5 GRAHAM CT
146-6-2-19-4	7 GRAHAM CT
146-6-2-19-5	9 GRAHAM CT
146-6-2-19-6	10 GRAHAM CT
146-6-2-19-7	8 GRAHAM CT
146-6-2-19-8	6 GRAHAM CT
146-6-2-19-9	4 GRAHAM CT
146-6-2-19-10	2 GRAHAM CT
146-6-2-19-11	169 LOCUST AVE
146-6-2-18	195 LOCUST AVE
146-6-2-5	221 LOCUST AVE
146-6-2-4	227 LOCUST AVE
146-6-2-19-1	1 GRAHAM CT
146-6-2-20	165 LOCUST AVE
146-6-2-21	161 LOCUST AVE
146-6-2-45	57 CLINTON AVE
146-6-2-22	155 LOCUST AVE
146-6-2-23	151 LOCUST AVE
146-6-2-42	153 LOCUST AVE
146-6-2-41	58 CLINTON AVE
146-6-2-43	60 CLINTON AVE
146-6-2-44	59 CLINTON AVE
146-6-2-46	55 CLINTON AVE
146-6-2-47-4	53 CLINTON AVE
146-6-2-47-3	51 CLINTON AVE
146-6-2-40	56 CLINTON AVE
146-6-2-39	54 CLINTON AVE
146-6-2-38	52 CLINTON AVE
146-6-2-37	50 CLINTON AVE
146-6-2-36	48 CLINTON AVE
146-6-2-35	CLINTON & CENTRAL
146-6-2-48	45 CLINTON AVE
146-6-2-49	190 CENTRAL AVE
146-6-2-50	182 CENTRAL AVE
146-6-2-51	192 CENTRAL AVE
146-6-2-65	201 CENTRAL AVE
146-6-2-66	199 CENTRAL AVE
146-6-2-67	197 CENTRAL AVE

Parcel ID (S/B/L)	Address
146-6-1-30	10 CLUB RD
146-6-1-29	30 CLUB RD
146-6-1-12-1	3 CLUB RD
146-6-1-12-2	1 CLUB RD
146-6-1-11	6 CLUB RD
146-6-1-10	2 SUNSET LN
146-6-1-9	4 SUNSET LN
146-6-1-33	25 CLUB RD
146-6-1-32	21 CLUB RD
146-6-1-31	180 LOCUST AVE
146-6-1-35	190 LOCUST AVE
146-6-1-36	2 WINDCREST RD
146-6-1-40	1 WINDCREST RD
146-6-1-37	4 WINDCREST RD
146-6-1-39	3 WINDCREST RD
146-6-1-38	5 WINDCREST RD
146-6-1-6	7 WINDCREST RD
146-6-1-34	6 WINDCREST RD
146-6-1-7	8 WINDCREST RD

ROLL CALL

AYES: Councilmembers Goddard, Hurd, Mecca, Souza, Stacks, Tagger-Epstein, Mayor Cohn
NAYS: None
ABSENT: None

14. **Resolution to authorize participation in Westchester County contracts.**
Roll Call

City Manager Serrano explained that some time ago, the City entered into an agreement to piggyback on county contracts.

Councilwoman Souza made a motion, seconded by Councilwoman Tagger-Epstein, to adopt the following resolution:

WHEREAS, by Act No. 8-1983, The County Board of Legislators authorized the County Purchasing Agent to act as Purchasing Agent for any city, town, village, school district or other unit of local government within the County of Westchester County, provided that said unit of local government by act, ordinance or resolution authorizes the County Purchasing Agent to act as its Purchasing Agent for items purchased by the County, and empowering designated officers and employees to sign requisitions, and further directing the proper official of local government to audit and pay County bills for the cost of County services within thirty (30) days after the receipt of said bill by the local government, and to provide the

County with such insurance coverage as may be required by the County’s Director of Risk Management, NOW, THEREFORE, be it

RESOLVED, that the County Purchasing Agent is hereby authorized to act as Purchasing Agent for the City of Rye, New York on a continuing basis, and be it further

RESOLVED, that the City Manager, the City Comptroller, and/or the City Engineer are hereby authorized to sign appropriate requisitions, and be it further

RESOLVED, that the City Comptroller is hereby authorized and directed to audit and pay County bills for the cost of County services within thirty (30) days after receipt of said bills, and be it Further

RESOLVED, that the City Comptroller is hereby authorized to secure and provide to the County of Westchester any and all insurance required by the County’s Director of Risk Management, in Accordance with County Act No. 8-1983.

ROLL CALL

AYES: Councilmembers Goddard, Hurd, Mecca, Souza, Stacks, Tagger-Epstein, Mayor Cohn
NAYS: None
ABSENT: None

15. Resolution designating the days and time of regular meetings of the City Council for 2019 setting January 9, 2019 as the first regular meeting.

Councilwoman Souza made a motion, seconded by Councilwoman Goddard and unanimously carried, to adopt the following meeting schedule for the 2019 calendar year:

- January 9, 23
- February 6, 27
- March 13, 27
- April 6 (annual School Board/ City Council meeting); 10, 24
- May 8, 22
- June 5
- July 17
- August 7
- September 18
- October 2, 16
- November 6, 20
- December 4, 18

16. Appointments to Boards and Commissions by the Mayor with Council approval.

Mayor Cohn, with unanimous Council approval, appointed the following members to the Senior Advocacy Committee: Joni Ehrlich, Vivian Linder, Pat Hammer, Nancy Haneman, Hal Schwartz, Linda Ritocco, and Michelle Thomas. The terms are staggered as follows:

Joni Ehrlich – 1 year, expiring January 1, 2020
Vivian Linder – 1 year, expiring January 1, 2020
Pat Hammer – 2 years, expiring January 1, 2021
Nancy Haneman – 2 years, expiring January 1, 2021
Linda Ritocco – 3 years, expiring January 1, 2022
Hal Schwartz – 3 years, expiring January 1, 2022
Michele Thomas -1 year, expiring January 1, 2020

17. New Miscellaneous communications and reports.

Councilman Stacks asked that the public notice be amended to reflect the upcoming special meeting to be held December 27, 2018.

Councilman Souza thanked Rye Recreation and the Fire Department for a great holiday bonfire.

Councilwoman Hurd announced there was free parking in the downtown through Christmas. On behalf of the Flood Advisory Committee, she announced an upcoming storm with flooding possible Thursday into Friday of that week. With regard to Rye Town Park, there is a parking subcommittee that is making recommendations for automatic parking meters. They are also looking for a new executive director. She reported that Rye Town Park also recently received a grant for a handicap ramp. She also said that the Commission had a presentation by the Barley House owners at the last meeting.

Councilman Mecca reported on behalf of the Planning Commission that there had been a proposal for a three tennis court bubbles at Apawamis. The Commission looks at it from two perspectives: site usage and wetlands issues/ watercourse. Councilman Mecca also reported that the Locust Avenue property has come back to the Commission for the fourth or fifth round. The Commission is doing its due diligence to massage the use of the property with the fact that it is 100% in a floodplain. No decisions have been made on Locust Avenue.

Councilwoman Goddard announced that CCAC Chair Carolyn Cunningham was stepping down after many years of service. She thanked Carolyn for her dedication to Rye and wished her well. The Council also thanked Carolyn.

18. Old Business.

Councilwoman Tagger-Epstein announced that the temporary road closures are open again on Grandview. She inquired about the Rye Country Day School traffic study and any next steps.

Mayor Cohn responded that he foresaw this going back to Traffic and Pedestrian Safety Committee. The City knows that the neighborhood is doing a poll.

Councilwoman Tagger-Epstein reminded everyone that the TPS meetings are public, and invited anyone who might be interested to weigh in.

19. New Business.

There was nothing discussed under this agenda item

20. Adjournment

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilwoman Souza and unanimously carried, to adjourn the meeting into executive session for litigation and personnel matters at 9:44 p.m.

Respectfully submitted,

Carolyn D'Andrea
City Clerk