

APPROVED MINUTES of the Regular
Meeting of the City Council of the City of Rye held in
City Hall on October 16, 2019, 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 Hurd, enter into executive session to discuss litigation and personnel matters. At 7:29 P.M., Councilman Mecca made a motion, seconded by Councilwoman Hurd, to exit executive session and commence the regular meeting of the City Council. The meeting began at 7:38 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 Deputy City Clerk to call the roll; a quorum was present to conduct official City business.

3. General Announcements.

Councilwoman Goddard announced this Saturday, November 9, 2019 is Zero Waste Day at Rye Playland parking lot from 9:00am-3:00pm. Residents can drop off hazardous waste, items that do not qualify for curbside recycling, personal papers for shredding, electronics, and appliances with Freon. Additionally, donations from local nonprofit organizations will be collected. For more information, visit www.zero-waste-day.org.

Councilman Mecca announced that it was Fire Prevention week. The theme for 2019 is “Plan and Practice your Escape.” There have been 22 presentations across schools and senior centers to approximately 1,800 people by the Rye Fire Department. He also announced that on Saturday, October 19, 2019, the “Touch a Truck” event will be held at Christ Church from 10:00am to 2:00pm. He then reported that the Planning Commission has a full agenda, namely

discussing the two-lot subdivision at 289 Grace Church Street, a zoning petition for the Osborn property, and a zoning petition for Avon property. He announced that the election for open City Council seats will be held on Election Day, November 5, 2019, and a combined slate candidate's forum will be held next Thursday, October 24, 2019 at 7:00pm at Rye Middle School.

Councilwoman Hurd announced that the Fall Festival at Rye Town Park would be held on October 20, 2019 from 11:00am to 3:00pm. There will be pumpkin painting, face painting, live music, and other exciting events. Additionally, the Barley Beach House will now be operating all year round.

Councilwoman Tagger-Epstein recognized the passing of Mayor John Carey and spoke about his dedication for Human Rights. As a result, the Human Rights Commission has re-named the annual award to the John Carey Award for Human Rights. She invited nomination submissions for the award, due October 21, 2019 for both the youth and individual categories.

Councilwoman Souza announced that the Annual Halloween Window Painting event will be held in the Central Business District on Sunday, October 20, 2019.

Councilman Stacks announced that the Rye Golf Club Closing Day Scramble will be held this Sunday, October 20, 2019.

Mayor Cohn announced the Rye Senior Directory has been updated for the first time in years. He also congratulated the Rye Garnets football team on their latest win over Harrison. He then called for a moment of silence for the passing of former Mayor, John Carey.

4. Draft unapproved minutes of the Regular Meeting of the City Council held October 2, 2019.

Councilman Hurd made a motion, seconded by Councilman Mecca, and unanimously carried, to approve the minutes of the regular meeting of the City Council held October 2, 2019.

5. Residents may be heard on matters for Council consideration that do not appear on the Agenda.

Gerry Seitz, 141 Kirby, congratulated the City on the ease of renewing applications for parking permits. He asked where The City stood on identifying new sources of revenue. Councilman Stacks referred him to the Finance Committee and it has been reinvigorated with this current Council.

6. Presentation regarding Nursery Field Turf Project and consideration of a resolution declaring the City Council's Intent to be Lead Agency pursuant to SEQRA and directing that the project advance to the Planning Commission for wetland review and an advisory coastal consistency determination.

Mayor Cohn explained that the overall goal of the proposed project was to optimize the use of Nursery Field. He invited the representatives from Stantec to speak on the progress.

Jeffrey Olszewski, Stantec, explained that Stantec was a consulting firm brought on by the City to evaluate Nursery Field to meet its optimal usage for soccer, lacrosse and other recreational sports. He said that Stantec was not a turf company or construction firm, but rather consultants to move this project forward for the community. Mr. Olszewski summarized and stated that Nursery Field is located in a residential neighborhood. The existing site was visited after a rain event to evaluate field conditions. He pointed out the FEMA flood plain line in his presentation to the Council. The field is slated to be in use 44.5 hours in spring and 36.4 hours in fall. In 2018, he stated that 40% of recreation programs were cancelled or relocated due to rain. Modifications from the existing proposal have been made since the last presentation to include lowering the elevation of the field to 13.5, which is 6 inches above the 100-year flood elevation, and moving the field further south to be 100% out of the wetlands, although still in the wetland buffer.

Phil Katz, Stantec project manager, addressed the issues of flooding and drainage. He explained the current field pitches from the North to the wetlands and the existing field poorly drains. Synthetic turf would provide no runoff because a retaining wall will be built and water will flow through the turf down to the stone underground storage retention basin. The water would release through an outlet controlled structure which would release the water at a slower pace.

Mr. Katz then spoke about the concern of environmental health risks and reported no adverse impacts with the use of turf. Infill could be a topic of concern, however, no infill has been selected at this time. He added that condition testing from CT and MA were provided. He provided a list of all schools currently using turf and also referenced the heat concern. He confirmed the heat is dissipated and no odors have been proven to be harmful.

Mr. Katz added that natural grass also has a carbon footprint, but is different. Fertilizer runoff and maintenance of cutting grass adds to the carbon footprint. There is a variety of infill options such as synthetic, natural, and rubber. The natural fill does need a higher replacement with seasonal top off. Mr. Katz stated that two-thirds of the current field would need to be raised, which is approximately 60,000 square feet, depending on where the FEMA line falls. Stantec representatives added that they could perform a hydrology and hydraulic study, which costs \$23,000, which would confirm the actual FEMA flood line and surpass the government requirement, for the benefit of the residents.

Councilman Stacks inquired about whether the underground storage would be similar if a grass field was built. Stantec confirmed that a storage platform would still need to be built in order to address the flooding issue. Josh Atkinson, Stantec, also reported that costs over a 10 year period is equal for natural grass or turf.

Councilwoman Goddard added that project costs could range from \$2-3 million dollars and was concerned with how rapid this project is moving without addressing a few questions. Her questions were as follows: Who is funding this project? What is the plan for raising money?

How will maintenance costs be managed? Looking at the timeline previously presented, funding would need to be collected by January 2020, but the Council is set to approve the fund balance in November. Councilwoman Hurd confirmed, as previously discussed, that a 501(c)(3) was created, under the name of Rye Youth Athletic Foundation, for the raising of funds for this project.

Tim White, Rye Youth Athletic Foundation, explained they wanted to include everyone on the process and although they did not set the timeline, if the field is slated to be ready for next fall this is the timeline to follow. He added, the group is working to raise funds under the impression of building a turf field due to the optimal availability of field usage.

John Hess, president of Rye Youth Lacrosse, reiterated that last year 125 hours of use was dedicated to Nursery Field. However, only 22 hours were used due to field conditions. After every rain event, such as this evening, the following two days would not be usable field time regardless of the weather conditions. He said that his kids are on club teams using turf fields in the summer at Rye Country Day and many kids are playing on turf.

Karen Mathewson, 62 Elmwood Ave, expressed her concern that there was not a lot of dialogue of this project. As a physician, and faculty member at NYU School of Medicine, she wanted to add her concern in regards to medical risks, potential for heat injuries, concussions, and infill. She said she was also concerned about lead in artificial field and other carcinogens.

Emily Keenan, 2 Eve Lane, self-identified as a soccer coach and sports mom, reported that 1,000 Rye Youth soccer participants and 700 Rye Youth lacrosse participants share fields within Rye. Poor field conditions drastically reduce playing and practice time. She added that grass fields should only be used 15-20 hours a week where sports are using 35-45 hours a week of field time. She brought up that Rye U9 soccer home games are played at Stepinac High School, in White Plains, on their turf field. They hold two games at a time for six hours at their designated home field which is more than five miles away.

Sheri Jordan, 15 Coolidge Ave, added that if the time comes where the Planning Commission looks at this plan, to consider the historic Knapp House and Burial ground and ensure it does not get compromised in any way.

Dan Adler, 62 Elmwood Ave, wanted to address opening the discussion to the neighbors to create the best plan for the field. He added in 2002, a plan was suggested that would have worked well with grass fields which would not compromise the amount of natural grass in Rye.

Lori Fontanes, 11 Robert Crisfield Place, spoke about the conservation portion of the project. She added with the previous proposed project, work sessions were in place where this project appears to be moving too quickly without transparency. She wanted to address conserving open space and be mindful of the loss of natural beauty of Rye.

Alison Relyea, 12 Halstead Pl, spoke about considering the health risks of turf fields that lie this close proximity to homes in wetlands. She asked if a group could be collaborated to discuss various ideas before moving this to the Planning Commission.

Dan Adler added he has a list of questions he wanted to ask. Superintendent of Public Works, Ryan Coyne, suggested that Mr. Adler send the questions via email so they can all be addressed.

Alison Relyea asked why the City Council would be the lead agency versus the Planning Commission. Corporation Counsel clarified that the City Council is the lead agent under SEQRA. The Planning Commission would be limited to studying the environment as it relates to wetland and wetland buffer to come to a coastal consistency determination, whereas the City Council will study a much broader view of the term environment, such as health effects, historical and cultural resources. She added that required public hearings will be held from both the City Council and the Planning Commission which will afford the public to further speak. Councilwoman Souza explained this is the first step of a multitude of steps in this process and the public will have plenty of time to add their input for the future of this field space.

Elizabeth Alexander, 290 Stuyvesant Ave, member of Save the Sound, wanted to add that her main concern is the location of the field as it abuts the Blind Brook and is concerned about the runoff during heavy rain conditions into Milton Harbor and the Long Island Sound.

Mayor Cohn added that the Council will take great measures to review all plans.

Councilman Souza made a motion, seconded by Councilwoman Hurd, and unanimously carried, to declare that the City Council's Intent to be Lead Agency pursuant to SEQRA; and

WHEREAS, the Rye City Council is considering a donor-funded project to replace the existing grass playing surface at Nursery Field with artificial turf; and

WHEREAS, the City Council has funded a consultant to prepare the requisite plans, studies and specifications and to secure required permits and approvals; and

WHEREAS, the proposed action is subject to environmental review and determination of significance pursuant to the requirements of State Environmental Quality Review Act (SEQRA);

NOW, THEREFORE, BE IT RESOLVED, that the City Council declares its intent to be Lead Agency for the environmental review of the proposed action pursuant to SEQRA.

Further, Councilwoman Hurd made a motion, seconded by Councilwoman Souza, to finance a hydrology and hydraulic study at a cost of approximately \$23,000.

ROLL CALL

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

7. Update Review of results of food scrap test pilot and discussion and possible action on next steps related to:
A) Drop-off Facilities
B) Curbside Pickup.

Mayor Cohn summarized that Rye currently offers a limited curbside pickup program for about 150 subscribers, and a drop-off location open to all residents. The current food scrap recycling process is that the County receives the food scraps and drives them to Ulster County, 100 miles away. He reported that he spoke with the County and they are very close to a permanent solution but this is the interim solution.

Ryan Coyne, Superintendent of Public Works, summarized the data on the pilot program. He reported registration opened in January of 2019 with a maximum of 156 people for curbside pickup followed by registration for the drop off program. There were about 10 new registrations per week, totaling 488 by September 2019. The total program collection is 34 tons of food scraps. The City pays \$95 per ton. There was an average of 70% participation rate, per week for pick up, starting in March for 30 weeks.

Melissa Grieco, Chair of the Sustainability Committee, provided an overview of the program. She explained that 110 tons of garbage is collected per week while 9.8% is food scraps. The garbage is then brought to an incinerator and the ash is brought to a monofill facility in Massachusetts. There was general discussion about the functions and emissions of incinerators and wheelabrators. She added that 208 households want curbside pickup and suggested it can be integrated with yard waste or recycling days so to not interfere with the current routes. There are currently 489 households registered for the pilot program and 3,421 students are composting in Rye City Schools.

Shari Punyon, 81 Glen Oaks Drive, via letter, wanted to show her support for the program and curbside pickup.

Sister Arlene Flaherty, 20 Park Lane, spoke in support of the food scrap recycling program. She added that food scraps supports the soil for climate change as global warming increases.

Arthur Henderson, 61 Halstead Place, explained that he grew up in a small rural community composting. He wanted to show his support for the program.

Meighan Corbett, 600 Forest Ave, wanted to show her support for curbside pickup. She reported that her garbage is cut in half because half of her garbage is food scraps. She said that the community needs to consider the Earth's future.

Colleen Margiloff, 63 Island Drive, wanted to show her support of the program. She added that 16 municipalities are already in the program and the City of Rye needs to work alongside them instead of waiting for the County to move forward.

Susan Drouin, 57 Morehead Drive, showed her support for curbside pickup. She added her family of five, plus pets, is down to one garbage pickup per week.

Pam Tarlow, 465 Midland Ave, voiced her support for the program.

Councilman Mecca suggested keeping the program to evaluate data for a full year. He suggested the curbside pickup continue but the list be re-evaluated.

Councilwoman Hurd said that the solution would be one day of garbage and one day of compost and fully supports the program.

Councilwoman Goddard stated the City needs to move this program forward by supporting composting. She added that Superintendent Coyne confirmed business can be run as usual without the need for overtime with the current number of subscribers.

Councilwoman Souza added that the City should support 100% drop-off but curbside needs to be evaluated.

Councilwoman Tagger-Epstein said that people residents support curbside pickup so the City should make it permanent so that the community can do it better.

Councilman Stacks wanted to clarify that making the program permanent makes sense as long as it is being reviewed consistently and making sure there is the opportunity to pull the program back if it does not work in the future.

Mayor Cohn provided his research in that hauling food scraps 20 miles is positive whereas sending it 50 miles has a negative result. Currently, the City was sending it 100 miles which does not show an environmental positive. He said he wants to continue curbside pickup and drop-off to support the County, but does not agree with driving scraps 100 miles as it is negatively affecting the environment. Mayor Cohn reported he has discussed with DPW Superintendent Coyne the feasibility of adding a second drop-off site.

Councilman Mecca made a motion, seconded by Councilwoman Goddard, to continue curbside pickup for 156 subscribers, continue the drop-off location, as well as add a second drop off location determined by DPW, and provide the current curbside subscribers the opportunity to relinquish their spot to a waitlisted subscriber, through October 31, 2020.

ROLL CALL

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

14. Authorize a request from the Boat Basin Commission to transfer \$150,000.00 from the Boat Basin unassigned fund balance to Boat Basin Unrestricted Net Assets to cover the cost of the Biological Testing and the purchase of a hauling trailer.
Roll Call

Councilwoman Tagger-Epstein departed from the meeting at 11:00pm.

Councilwoman Hurd reported that as part of the Boat Basin’s dredging plan, the Marina would like to biologically test its waters to see if it suitable for open water disposal. If so, it would greatly reduce the cost to dredge. In addition to testing, the Boat Basin would like to start offering hauling services which would require the purchase of a trailer.

Robert November, Boat Basin Commission Chair, clarified that if biological testing works, the Boat Basin can dredge and dump in open waters. It was clarified that this is a different testing from previous analysis.

Councilwoman Hurd made a motion, seconded by Councilman Mecca, to transfer \$150,000.00 from the Boat Basin unassigned fund balance to Boat Basin Unrestricted Net Assets to cover the cost of the Biological Testing and the purchase of a hauling trailer.

ROLL CALL

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

17. Resolution to transfer 2018 Rye TV Fund-unassigned Fund Balance of \$1,010,665 to the Capital Reserve Account.
Roll Call

Paula Fung requested that a discussion occur prior to moving the funds to the capital reserve fund.

Steven Fairchild, Rye Cable and Communications Committee Chair, wanted to reiterate that things will change with funding, but requests we sit down to see what the City wants of RyeTV to be, prior to moving the funds to the general fund.

Councilwoman Hurd clarified that these franchise fees were not meant to be collected as a fund for RyeTV, as it is not an enterprise fund. Councilman Stacks added that the funds are tax revenue. The money was directed into this fund but is City money and the appropriate location should be in the general fund. Councilwoman Goddard added that all other municipalities in Westchester County that have public access channel franchise fees are directed into the general fund. The Council confirmed that RyeTV will still be reviewed and supported and the Council and subcommittee will be committed to keeping RyeTV moving forward.

Councilman Hurd made a motion, seconded by Councilman Stacks, to adopt the following resolution:

RESOLVED, that the City Council authorize the transfer 2018 Rye TV Fund-unassigned Fund Balance of \$1,010,665 to the Capital Reserve Account.

ROLL CALL

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

8. Open a public hearing to add Article VI “Vestibules” to Chapter 167 (Streets and Sidewalks) of the City Code of the City of Rye to facilitate the use and implementation of vestibules on the City’s sidewalks, allowing commercial properties to insulate interiors in a safe and proper manner.

Councilman Hurd made a motion, seconded by Councilman Mecca, to open the public hearing.

Councilwoman Souza said she presented this item at the most recent Chamber of Commerce meeting and the merchants were happy with the end result.

With no one else being present to speak, Councilman Souza made a motion, seconded by Councilwoman Hurd, to close the public hearing.

Councilwoman Souza made a motion, seconded by Councilwoman Hurd to adopt the following a Local Law #7, Article VI “Vestibules” to Chapter 167 (Streets and Sidewalks) of the City Code of the City of Rye to facilitate the use and implementation of vestibules on the City’s sidewalks, allowing commercial properties to insulate interiors in a safe and proper manner code of the City of Rye to facilitate the use and implementation of vestibules on the City’s sidewalks, allowing commercial properties to insulate interiors in a safe and proper manner, which includes amending the fee schedule to \$200, as follows:

**CITY OF RYE
LOCAL LAW NO. 7 OF 2019**

A Local Law to add Article VI “Vestibules” to Chapter 167 (Streets and Sidewalks) of the City Code of the City of Rye to facilitate the use and implementation of seasonal vestibules on the City’s sidewalks, allowing commercial properties to insulate interiors in a safe and proper manner.

Section 1. General

§ 167-66 Purpose.

The purpose of this chapter is to establish regulations for the design, construction, installation and maintenance of seasonal vestibules in the City of Rye, in order to maintain safe

conditions that protect the well-being of the community and to allow for additional insulation and protections to be provided during the winter season.

§ 167-67 **Permit required.**

- A. No person, firm or corporation conducting or maintaining any place of business in the entire City shall keep, use, erect, construct or maintain any vestibule in or upon the sidewalks or rights-of-way in the City unless the person, firm or corporation obtains a vestibule permit from the City of Rye Building Inspector.

§ 167-68 **Permit applications.**

- A. All applications for vestibule permits shall be submitted to the City of Rye Building Department and contain the following information:
- (1) The name and business address of the applicant.
 - (2) The name of the street, alley or sidewalk onto which it is desired to place the vestibule.
 - (3) A site plan with appropriate dimensions showing the size and configuration of the vestibule and the extent of encroachment on adjacent City property, the location of adjacent buildings and storefront entrances and the dimensions to City curb and other existing obstructions (e.g. trees, signs, planters or other street amenities).
 - (4) A drawing showing the materials, color and other physical elements and appearance of the vestibule in sufficient detail to facilitate review by the Board of Architectural Review.
 - (5) Other information and plans as may be required by the City of Rye Building Department.
 - (6) Application form and fee as set forth in the Fee Schedule adopted by the City Council.
- B. No vestibule permit shall be issued until the Building Inspector has approved the proposed vestibule location and the sufficiency of the pedestrian pathway.

§ 167-69 **Permit conditions; effect on existing vestibules.**

- A. Any vestibule permit shall be conditioned on the following:
- (1) Vestibule permits are effective from November 1 to April 15 each year. Vestibule permits are only effective for one winter season.
 - (2) Any vestibule must allow for at least five (5) feet of unobstructed sidewalk to allow for sufficient pedestrian passage.

- (3) Before any permit is issued, the applicant shall furnish the City with proof of insurance naming the City of Rye as an additional insured in the amount of at least two-million dollars (\$2 Million) in addition to a signed and notarized hold harmless and indemnification agreement holding the City of Rye harmless from any liability and indemnifying the City of Rye. All documents shall be submitted to the Building Department and subject City Attorney for review and approval.
 - (4) All vestibules shall be approved by the City of Rye Board of Architectural Review prior to receiving a permit, which approval shall be valid for a period not to exceed three (3) seasons. Upon Board of Architectural Review approval and prior to the start of each vestibule seasons the applicant shall file with the City Building Department an application form and fee as set forth in the fee schedule of the City budget adopted by the City Council. Filing with the Building Department shall only be permitted if there have been no enforcement actions against the applicant in the preceding season for failure to comply with the original permit approved by the Board of Architectural Review.
- B. Any person, firm or corporation which has a vestibule located on the sidewalk along any streets or City rights-of-way in the City shall immediately remove same or comply with the terms of this article.

§ 167-70 Permit denial or revocation; appeal.

- A. The Building Inspector may deny a vestibule permit or modify the above requirements if such vestibule would interfere with safe pedestrian passage on a particular area of sidewalk. If the Building Inspector denies a permit, he/she must state his/her reason(s) for denying the vestibule permit, in writing, and mail a copy of the written decision to the applicant.
- B. The Building Inspector may issue a notice of violation for persons or entities violating any provision of this article or conditions of the approved vestibule permit. Such notice shall be in writing and specify the provision(s) violated, the remedial action to be taken and the time limit for compliance, which shall be no less than three (3) days from the date of the mailing of the notice of violation.
- C. If a person, firm or corporation willfully and consistently fails to comply with the provisions of this article, the City may take any necessary steps to ensure a clear pedestrian pathway of at least five (5) feet and assess against such party the costs of maintaining such pedestrian pathway.
- D. Right of appeal. Any holder of a vestibule permit who has had his/her permit revoked or who has been ordered by the Building Inspector to incur expense in connection with the clearing or maintenance of a vestibule, or any applicant whose application has been denied, may appeal to the Board of Appeals within 15 days of such revocation, order or decision.

§ 167-71 Fees.

Prior to the issuance of a vestibule permit, application and seasonal licensing fees as set forth in the Fee Schedule adopted by the City Council.

Section 2. Severability

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

Section 3. Effective Date

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

ROLL CALL

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

Councilwoman Souza made a motion, seconded by Councilwoman Hurd, to adopt the following resolution:

WHEREAS, on September 18, 2019, the Rye City Council set a public hearing for October 16, 2019 on a local law to add Article VI “Vestibules” to Chapter 167 (Streets and Sidewalks) of the City Code of the City of Rye to facilitate the use and implementation of seasonal vestibules on the City’s sidewalks, allowing commercial properties to insulate interiors in a safe and proper manner.; and

WHEREAS, the City Council has reviewed the Environmental Assessment Form (EAF) and determines that the proposed action is consider an Unlisted Action; and

WHEREAS, the City Council is the only Involved Agency in connection with the proposed action; and

WHEREAS, the City Council conducted a noticed public hearing on October 16, 2019 and all those wishing to be heard were given the opportunity to be heard;

NOW, THEREFORE, BE IT RESOLVED, that the City Council designates itself as Lead Agency and based on its review of the Environmental Assessment Form (EAF), the criteria listed in Section 617.7(c) of SEQRA and the complete record, the City Council finds that the proposed action will not have a significant adverse environmental impact; and

BE IT FURTHER RESOLVED, that the City Council adopts Local Law #6-2019 to add Article VI “Vestibules” to Chapter 167 (Streets and Sidewalks) of the City Code of

the City of Rye to facilitate the use and implementation of seasonal vestibules on the City’s sidewalks, allowing commercial properties to insulate interiors in a safe and proper manner; and

BE IT FURTHER RESOLVED, that the City Council amends the current City Fee Schedule to add the following new fees: 1) “Vestibule Permit - \$200”.

ROLL CALL

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

9. Open a public hearing on a local law amending §197-86 of the Code of the City of Rye to Amend the Regulation of Accessory Seasonal Outdoor Customer Seating.

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

City Planner, Christian Miller, summarized the local law and explained it reduced the current fee, as a result of merchant feedback. Councilwoman Souza added that the merchants were really excited to partner with the City to adjust the proposed local law.

With no one else being present to speak, Councilman Souza made a motion, seconded by Councilwoman Hurd, to close the public hearing.

Councilwoman Souza made a motion, seconded by Councilwoman Hurd to adopt the following Local Law #8, amending §197-86 of the Code of the City of Rye to Amend the Regulation of Accessory Seasonal Outdoor Customer Seating, as follows:

**CITY OF RYE
LOCAL LAW NO. 8 -2019**

**A local law amending §197-86 of the Code of the City of Rye to
Allow Accessory Seasonal Outdoor Customer Seating**

Be it enacted by the City Council of Rye as follows:

Section 1. §197-86 Table of Regulations: Table B Business Districts-Use Regulations, Column 3, Permitted Accessory Uses, Row B-1 Central Business Districts, of the Code of the City of Rye is hereby amended to add the following new subsection:

- (3) Seasonal outdoor customer seating permit. Upon application to the City Planning Department, the Planning Commission may permit for a period of up to three (3) years seasonal outdoor customer seating and tables on a

property and, to a limited degree, extensions onto abutting City property, subject to the following limitations:

- (a) The applicant shall submit an application form, plans detailing the area of proposed seasonal outdoor dining and fee as set forth in the fee schedule of the City budget adopted by the City Council.
- (b) Outdoor customer seating shall only be permitted from April through October and shall require a new permit approved by the Planning Commission after three (3) outdoor dining seasons. During the months of November through March, the tables, chairs and any related equipment must be stored inside of the building or removed from the site.
- (c) The Planning Commission shall limit the area of outdoor customer seating such that it will not interfere in any way with fire exits or other requirements of the Building Code of New York State.
- (d) The Planning Commission shall limit the area to be devoted to outdoor customer seating so that it will not interfere with access by the handicapped and shall maintain on any City sidewalk a safe, adequate and unobstructed passageway for pedestrians not less than five feet in clear width from the edge of the outdoor seating area to the nearest obstruction.
- (e) The outdoor area to be devoted to seasonal outdoor customer seating shall not be considered for the purpose of determining on-site parking requirements.
- (f) The Planning Commission may impose conditions and requirements as it deems appropriate, including, but not limited to, size and configuration of the outdoor seating area; maximum number of tables and chairs; permitted hours of outdoor seating; type, size and color of tables and chairs; requirements for the daily removal of tables and chairs; limitations on the placement of tables during City-approved outdoor events, and/or standards for cleanliness and removal of debris.
- (g) The Planning Commission shall not issue a permit if it finds that the proposed outdoor seating would be incompatible with other uses on the property or an abutting property.
- (h) The Planning Commission may deny the issue of a permit if it finds that during the prior year the permit holder violated any condition of the permit, that during the prior year the applicant or the property owner provided or permitted outdoor seating without having

obtained a permit or that there are outstanding notices of violation concerning the property or the applicant's use.

- (i) Upon Planning Commission approval and prior to the start of each outdoor dining season the applicant shall file with the City Building Department an outdoor dining application form and fee as set forth in the fee schedule of the City budget adopted by the City Council. Filing with the Building Department shall only be permitted if there have been no enforcement actions against the applicant in the preceding season for failure to comply with the original permit approved by the Planning Commission. If such seasonal outdoor dining involves use of City property an insurance certificate naming the City as an additional insured in the amount of at least \$2,000,000 and a signed and notarized indemnification and hold harmless agreement shall also be provided to the City Building Department.

- (j) For properties located in the B-1 Neighborhood Business District, the applicant shall notify the neighbors by sending out a public notification provided by the City. The applicant shall prepare a notification list, based on the most current City of Rye Tax Maps and Tax Assessment roll, showing the Tax Map sheet, block and lot number, the owner's name and owner's mailing address for each property located, wholly or partially, within 300 feet of the subject property. If a property on the public notification list is also listed as a cooperative or an apartment, the notice shall be mailed to the property owner of record. These mailing requirements must be performed in accordance with the following requirements:
 - [1] The mailing shall be limited solely to the notice provided by the City.

 - [2] The notice shall be mailed to all property owners at a post office or official depository of the Postal Service at least 10 days prior to the submission of the outdoor dining application to the City. The applicant must obtain a certificate of mailing for every notice mailed.

 - [3] The applicant must provide to the City a copy of the notice that was circulated and a copy of the certificate of mailings.

Section 2. §197-86 Table of Regulations: Table B Business Districts-Use Regulations, Column 3, Permitted Accessory Uses, Row B-2 Central Business Districts, of the Code of the City of Rye is hereby amended to add the following new subsection:

- (4) Seasonal outdoor customer seating. Upon application to the City Planning Department, the Planning Commission may permit for a period of up to

three (3) years seasonal outdoor customer seating and tables on a property and, to a limited degree, extensions onto abutting City property, subject to the following limitations:

- (a) The applicant shall submit an application form, plans detailing the area of proposed seasonal outdoor dining and fee as set forth in the fee schedule of the City budget adopted by the City Council.
- (b) Outdoor customer seating shall only be permitted from April through October and shall require a new permit approved by the Planning Commission after three (3) outdoor dining seasons. During the months of November through March, the tables, chairs and any related equipment must be stored inside of the building or removed from the site.
- (c) The Planning Commission shall limit the area of outdoor customer seating such that it will not interfere in any way with fire exits or other requirements of the Building Code of New York State.
- (d) The Planning Commission shall limit the area to be devoted to outdoor customer seating so that it will not interfere with access by the handicapped and shall maintain on any City sidewalk a safe, adequate and unobstructed passageway for pedestrians not less than five (5) feet in clear width from the edge of the outdoor seating area to the nearest obstruction.
- (e) The outdoor area to be devoted to seasonal outdoor customer seating shall not be considered for the purpose of determining on-site parking requirements.
- (f) The Planning Commission may impose conditions and requirements as it deems appropriate, including, but not limited to size and configuration of the outdoor seating area; maximum number of tables and chairs; permitted hours of outdoor seating; type, size and color of tables and chairs; requirements for the daily removal of tables and chairs; limitations on the placement of tables during City-approved outdoor events, and/or standards for cleanliness and removal of debris.
- (g) The Planning Commission shall not issue a permit if it finds that the proposed outdoor seating would be incompatible with other uses on the property or an abutting property.
- (h) The Planning Commission may deny the issue of a permit if it finds that during the prior year the permit holder violated any condition of the permit, that during the prior year the applicant or the property

owner provided or permitted outdoor seating without having obtained a permit or that there are outstanding notices of violation concerning the property or the applicant's use.

- (i) Upon Planning Commission approval and prior to the start of each outdoor dining season the applicant shall file with the City Building Department an outdoor dining application form and fee as set forth in the fee schedule of the City budget adopted by the City Council. If such seasonal outdoor dining involves use of City property an insurance certificate naming the City as an additional insured in the amount of at least \$2,000,000 and a signed and notarized indemnification and hold harmless agreement shall also be provided to the City Building Department.

Section 3. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

Section 4. This local law shall take effect immediately upon filing in the office of the Secretary of State.

ROLL CALL

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

Councilwoman Hurd made a motion, seconded by Councilwoman Souza, to adopt the following resolution:

WHEREAS, on September 18, 2019 the Rye City Council set a public hearing for October 16, 2019 on a local law amending §197-86 of the Code of the City of Rye to amend the regulation of accessory seasonal outdoor customer seating; and

WHEREAS, the notice of hearing was circulated to the Westchester County Planning Board and abutting communities as required by Sections 277.61 and 277.71 of the Westchester County administrative code; and

WHEREAS, the City Council has reviewed the Full Environmental Assessment Form (EAF) dated September 13, 2019 and determines that the proposed action is consider a Type I; and

WHEREAS, the City Council is the only Involved Agency in connection with the proposed action; and

WHEREAS, the City Council conducted a noticed public hearing on October 16, 2019 and all those wishing to be heard were given the opportunity to be heard;

NOW, THEREFORE, BE IT RESOLVED, that the City Council designates itself as Lead Agency and based on its review of the Environmental Assessment Form (EAF), the criteria listed in Section 617.7(c) of SEQRA and the complete record, the City Council finds that the proposed action will not have a significant adverse environmental impact; and

BE IT FURTHER RESOLVED, that the City Council adopts Local Law #7-2019 amending §197-86 of the Code of the City of Rye to Allow Accessory Seasonal Outdoor Customer Seating; and

BE IT FURTHER RESOLVED, that the City Council amends the current City Fee Schedule to change the existing Outdoor Dining Fee from six-hundred and fifty dollars (\$650) to five-hundred dollars (\$500), to remove the Outdoor Dining License Fee of one hundred dollars (\$100) per table located on City property and to add a new Outdoor Dining Renewal Fee of two-hundred dollars (\$200).

ROLL CALL

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

10. Report of the City’s 3rd Quarter financial results by the Deputy Comptroller.

Joseph Fazzino, Deputy Comptroller, presented the third quarter results in comparison to 2018 third quarter results, focusing primarily on the general fund. He reminded the Council that this interim financial report is prepared for the use of management as internal documents and are unaudited and not prepared in compliance with Generally Accepted Accounting Principles (GAAP) in that they do not include all funds of the City, do not include all GAAP-required statements and schedules, do not include notes to the financial statements, and are not necessarily formatted in accordance with GAAP. He reported the following:

- 2019 General Fund revenues are up \$1,148,478 (3.5%) compared with 2018 revenues as a result of:
 - Property tax revenues increased \$583,910 (2.4%)
 - Charges for services increased \$44,790 (3.1%)
 - Intergovernmental revenues are down \$19,518 (20.6%) mostly due to the City not receiving payment for prisoner transportation, causing a \$14,112 decrease from 2018, due to the timing of payments.
 - Interest and investment income increased \$190,044, (63.1%)
 - Licenses and permit revenues decreased \$232,873 (9.4%)
 - Fines and forfeitures are down \$82,663 (14.3%)
 - Miscellaneous revenues decreased \$7,858 (5.7%)
 - Sales and loss compensation increased \$176,085 (47.6%)
 - State aid is up \$505,505 (62.7%)

- 2019 General Fund expenditures are up \$510,586 (2.0%) compared with 2018 expenditures as a result of:
 - Overall salaries and wages decreased \$94,383 (1.0%)
 - Equipment purchases declined by \$99,699 (38.8%)
 - Materials and supplies reduced by \$34,449 (2.6%)
 - Contractual costs are up \$295,249 (4.8%)
 - Employee benefits and taxes decreased \$358,802 (6.1%)
 - Transfers to other funds, the largest component of the overall expense increase, are up \$802,670 (73.2%)

11. Ratify the Memorandum of Agreement with the CSEA, Local 1000 AFSCME, AFL-CIO, City of Rye Clerical Unit and Westchester County Local 860 union.
Roll Call

Mayor Cohn thanked the Clerical-CSEA Union for their work and collaboration of the agreement. He said the agreement was both good for the City and the employees.

Councilwoman Souza made a motion, seconded by Councilman Stacks, to ratify the Memorandum of Agreement with the DPW-CSEA union.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Hurd, Mecca, Souza, Stacks

NAYS: None

ABSENT: Councilwoman Tagger-Epstein

12. Acceptance of resignation of City Manager and resolution authorizing Mayor to execute employee separation agreement including release and waiver of claims.

Mayor Cohn announced the City and Marcus Serrano have agreed to end his employment contract. Mr. Serrano will work as a consultant as management responsibilities transfer to an Interim City Manager.

Councilman Mecca commended Mr. Serrano for moving all of the City employees to NYSHIP, which was a large cost savings for the City.

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

RESOLVED, that the City Council accept the resignation of City Manager and authorize Mayor Cohn to execute an employee separation agreement including release and waiver of claims.

ROLL CALL

AYES: Mayor Cohn, Councilmembers Goddard, Hurd, Mecca, Souza, Stacks

NAYS: None

SENT: Councilwoman Tagger-Epstein

13. Resolution authorizing Mayor to execute employment agreement with Interim City Manager.

Mayor Cohn announced that Greg Usry has been appointed as the Interim City Manager. He read a statement about Mr. Usry's qualifications, experience and background.

Councilman Stacks added that Mr. Usry did a great job with the Finance Committee. Mayor Cohn said he provided exceptional assistance with project management and his views on how a City Manager form of government should be run.

Councilwoman Souza made a motion, seconded by Councilwoman Hurd, to adopt the following resolution:

RESOLVED, that the City Council authorize the Mayor to execute the employment agreement with Interim City Manager, Greg Usry.

ROLL CALL

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

Pam Tarlow, Rye resident, voiced her concern about ensuring that the Interim City Manager matches the qualifications specified in Article C of the City Charter.

15. Resolution to increase the Corporation Counsel Retainer Agreement by \$20,000 for the remainder of 2019 to allow for a Legal Assistant.
Roll Call

Councilwoman Souza made a motion, seconded by Councilman Stacks, to adopt the following resolution:

RESOLVED, that the City Council authorize to increase the Corporation Counsel Retainer Agreement by \$20,000 for the remainder of 2019 to allow for a Legal Assistant.

ROLL CALL

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

16. Resolution to transfer \$20,000 from General Fund-unassigned Fund Balance to Corporation Counsel Account.
Roll Call

Councilman Mecca made a motion, seconded by Councilwoman Souza, authorizing the transfer to cover the cost of a Legal Assistant for the Corporation Counsel.

ROLL CALL

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

17. Consideration of a request by the American Legion Post 128 to conduct its usual Veterans' Day observance on the Village Green on Monday, November 11, 2019 from 10:30 a.m. to 11:15 a.m. In case of rain, the American Legion Post 128 requests the use of City Hall on that date and time.

Councilman Stacks made a motion, seconded by Councilman Goddard, to approve a request by the American Legion Post 128 to conduct its usual Veterans' Day observance on the Village Green on Monday, November 11, 2019 from 10:30 a.m. to 11:15 a.m. In case of rain, the Council grants the American Legion Post 128 the right to use City Hall on that date and time.

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

There was nothing to report under this agenda item.

19. Old Business/New Business.

There was nothing to report 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 at 12:11 A.M.

Respectfully submitted,

Euka Pietrosanti
Deputy City Clerk