CITY OF RYE
1051 BOSTON POST ROAD
RYE, NY 10580
AGENDA

REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS, CITY HALL
Wednesday, February 26, 2020
7:30 p.m.

Please Note: The Council will convene at 6:30 p.m. and it is expected they will adjourn into Executive Session at 6:31 p.m. to discuss attorney-client privileged matters, personnel matters and labor negotiations.

1. Pledge of Allegiance.

2. Roll Call

3. Draft unapproved minutes of the Regular Meeting of the City Council held February 5, 2020.

4. General Announcements

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

6. Discussion of Change in Recycling Pickup Schedule regarding paper, plastic, and glass materials.

7. Further consideration of new welcome signs and potential renewal by residents of existing athletic achievement signs.

8. Authorization for the City Manager to extend the contract with attorney Joel R. Dichter, Esq. of Dichter Law LLC by an amount of $10,000 for professional fees and services in order to continue to represent the City in the proceedings before the New York Public Service Commission on the petitions of United Water Westchester to raise rates and possibly merge rates within the United Water New Rochelle district.

9. Consider setting a public hearing for March 11, 2020 to amend Chapter 144 "Peddling and Soliciting" to clarify permit requirements and soliciting laws.

10. Resolution to transfer $380,326.48 from the 2019 Operating Budget and Capital Reserve Fund for the City of Rye share of Rye Town Park capital expenditures.
Roll Call.

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

12. Old Business/New Business.

13. Adjournment.

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The next regular meeting of the City Council will be held on Wednesday, March 11, 2020 at 7:30 p.m.

** City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at www.ryeny.gov under “RyeTV Live”.

The Mayor and City Council members may be available for meetings by appointment. They may be contacted through the email addresses available on the City website.

DRAFT UNAPPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on February 5, 2020, at 8:00 P.M.

PRESENT:

JOSH COHN, Mayor
SARA GODDARD
CAROLINA JOHNSON
RICHARD MECCA
JULIE SOUZA
BENJAMIN STACKS
PAMELA TARLOW
Councilmembers

ABSENT:

None

The Council convened at 6:30 P.M. Councilman Mecca made a motion, seconded by Councilwoman Souza, enter into executive session to discuss litigation and personnel matters. At 8:02 P.M., Councilman Mecca made a motion, seconded by Councilwoman Souza, to exit executive session and commence the regular meeting of the City Council. The meeting began at 8:05 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. Draft unapproved minutes of the Regular Meeting of the City Council held January 22, 2020.

Councilman Souza made a motion, seconded by Councilman Mecca and unanimously carried, to approve the minutes of the Regular Meeting of the City Council held January 22, 2020.

4. General Announcements

Councilwoman Tarlow referenced the recent Board meeting of the Rye Free Reading Room, at which time the proposed national program, "Drag Queen Story Hour" was discussed as a possible program for the Rye Free Reading Room. She said that while there may have been a conflict, our community and the board handled it beautifully. She said she observed that all

speakers of differing opinions were welcomed and allowed to speak on the issue. She complimented the trustees for operating the meeting so well. With all of the information gathered, the plans for the program/ future administration of it would be done better. Councilwoman Tarlow said she was pleased as the liaison with how this was handled. She said that Rye was fortunate to have the library.

Councilwoman Goddard announced that she was sorry to report that Rye Sustainability Chair, Melissa Grieco, has decided to step down. Councilwoman Goddard thanked Ms. Grieco for her for all she had given to the community in her ten years of service, including the two years that she was chair. Fortunately, Sustainability Committee member Patti Capparelli has agreed to step into the role of chair. Councilwoman Goddard announced that the Sustainability Committee would be hosting an event entitled, "Fall in Love with Nothing: How to Live a Zero-Waste Life," on February 12, 2020 at the Rye Free Reading Room at 7:30pm. She also announced that she and Mayor Cohn attended the unveiling of the County's food waste study program, and a highlight was that the county plans on subsidizing the transportation costs to the compost facility for all food scrap participating municipalities. The City should see a major savings of $60 per ton. Lastly, CCAC Tracy Stora alerted the City to a new program from the NYSDEC, "Buffer in a Bag." The program distributes bags of native seedlings to those property owners abutting a waterway.

Councilwoman Souza announced that Rye Rec Kiddie Camp registration opens on February 6, 2020. The Upper Camp registration will open in March. On behalf of the Chamber of Commerce, she encouraged all residents to "like" and support the local businesses on social media.

Councilman Stacks reported that Rye Golf Club early memberships are open. He encouraged anyone interested to take advantage of the early bird rates before they go up. He also announced that the Traffic and Pedestrian Safety Committee would be meeting next Thursday, February 13, 2020.

Councilwoman Johnson commented that she was active on the Rye Free Reading Room board for ten years, and that she wanted to let people know how the funding works. The city provides 75% of funding for the building operations, with the remaining 25% raised as donations. Councilwoman Johnson complimented the staff, who she said were all professionals. She said that regarding the recent meeting of the library board, it was interesting to see the conversation on the proposed Drag Queen Story Hour program. She said that she felt the library had come up with a great solution for the time being, which still demands more conversation. Councilwoman Johnson read a quote that said, "being tolerant of each other and caring for each other makes us human. By teaching tolerance, we allow individuality and diversity while promoting peace and a civil society. Our success in the struggle of intolerance depends on the effort we make to educate ourselves and our children." She said it was important to hear each other and respect that not everyone thinks the same way.

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

David Cortez, 407 Midland Avenue, addressed the Council. He said that he and his family have felt welcome in Rye. He said that he became aware of this program at the library and was very curious about it. He said that after researching it, he felt that it was not appropriate for the age group. He asked the Council to reconsider this sort of program. He said that it was a mockery of the minority experience. He asked that the Council hold all the institutions to a higher standard.

Colette Dempsey, 195 Locust Avenue, addressed the Council. She said she had moved to Rye in 2008. She said she learned that the Rye library was going to have a Drag Queen Story Hour and that she was appalled. She said she felt the program was inappropriate for the age group proposed. She said that she had filled out a formal complaint. She said that was coming to the Council for help as she had heard that the City provides 75% of the library's funding. She said that these programs do not belong in the library.

Dave Dempsey, 195 Locust Avenue, addressed the Council. He agreed that the library board handled the meeting very well. He said he was not here to attack any group. Mr. Dempsey argued against the proposed Drag Queen Story Hour program.

David Hood, Radcliffe Avenue, read a statement against the Drag Queen Story Hour program.

Michelle McMullen, 72 Claremont Avenue, addressed the Council. She said she was among a number of citizens who have submitted complaints. She said she was disappointed with the Human Rights Commission and the City. She asked that all parties are invited to the table for input on future programming at the library.

Alyson Relyea, 12 Halstead Place, addressed the Council. She said she loved the library, and had served on the board. She said that she collaborated the library often. The director and the librarians are gems in our community. The library is a place for public engagement. Ms. Relyea stated that she attended the Drag Queen Story Hour in Putnam Valley with her son so that she could come and speak as someone who was familiar with the program. She said that there was not anything sexual about the program. She said that the storybooks are read and discussed, and that the program is entertaining and fun. She said that she could understand that such a program might be unfamiliar to many people. Ms. Relyea discussed the positive aspects of the program and said that she hoped Rye could get there as a community.

Danielle Tagger-Epstein, Human Rights Commission Chair and Rye resident, 10 Sound Road, addressed the Council. She read the current mission statement of the Human Rights Commission, which was reinstated in 2016. She reminded the community that the Council passed an anti-discrimination resolution in 2017. She read the resolution, and then explained that the Drag Queen Story Hour is a nonprofit organization started in San Francisco and housed in New York City. It teaches children about diversity among other important lessons. Ms. Tagger-Epstein applauded the Rye Free Reading Room for considering such a program. She said that while this program may not align with everyone, one can choose not to attend.

Councilwoman Tarlow commented that the disconnect here was what the term "drag queen" meant to different members of the community. She reminded everyone that civility is important in this case, and on all issues. She said that she had originally asked the same question of why 3-8 year olds would be the target age group with this program, and the response was that is the age group that typically attends story hour, which made sense. Councilwoman Tarlow stated that the library's programming is thoughtfully determined by an executive director. She said that the Council has no power to affect that. She said it was important for the Council to not affect that process and get involved in censoring programming that it has never previously interfered with. She encouraged anyone to communicate their thoughts with the library directly. She said that she felt the library did the exact right thing suspending the program until further notice. Further, she said that she had heard that the program was successful in Lewisboro.

Mayor Cohn stated that the Council stands by the anti-discrimination resolution. It is also true that the City of Rye has never dictated offerings or content in any of the not-for-profits in Rye, and it would be a very dangerous precedent for the City to do so. Mayor Cohn said that he was eager to see what the resolution may be. He recognized the work of the library director board on this and all issues there. He said he was hopeful that a resolution would be pleasing to everyone. Mayor Cohn lastly stated that we all have to take care of each other, and is grateful for the community for working together.

Ms. Dempsey readdressed the Council and said this was not discriminatory toward anyone, but she was not sure how drag queens were elevated to be role models. She stated that she felt the age group was not appropriate. She said that drag queens had a derogatory reputation and should not be reading books to children.

Dan Adler, 62 Elmwood Avenue, thanked the Council for their commitment to the environment. Mr. Adler made a statement against the proposed synthetic turf at Nursery Field. He stressed the importance about preserving the environment specifically at that site, being so close to a waterway. Mr. Adler then made a statement about Drag Queen Story Hour. He said that we live in an open society. He explained that when a statement is made that a certain group of people should not be role models, it can be very hurtful. If a child sees something in him or herself in a person that they are told should not be a role model, it can feel that the child is unwelcome. When a child suffers inside and feels not welcome in his or her community, it can lead to great depression and anxiety. Mr. Adler said that it is important for all children to be seen and welcome. It is a necessary thing in this community.

Angela Sculti, 8 Ridgeland Terrace, addressed the Council, and spoke against the Drag Queen Story Hour program. She said she felt that the bullies in this situation were the supporters of the program, and that advocates against the program were afraid to voice a valid opinion. She said that she felt upset that the Council could not do more to stop this programming. Ms. Sculti said she felt that there was no place for multiple opinions.

Mr. Cortez stated that it behooves this Council to demand that these groups act in a nonviolent and non-inflammatory way. He said the felt that there were a lot of people in hiding about their opinion. There was a lot of hateful speech.

Mayor Cohn said that the Council wished for civility in this conversation.

6. Authorize payment of the balance of the 2019/2020 Rye Neck Union Free School District taxes collected by the City to the School District.
Roll Call.

By way of background, the balance of unpaid Rye Neck U.F.S.D. taxes on property within the City of Rye is $280,643.59 at 12/31/19. This balance represents 2.31% of the total tax levied, $12,167,775.35, on September 1, 2019. Arrears notices will be mailed in conjunction with the 2020 City tax bills, and again during March 2020, May 2020 and June 2020 to try to collect these balances prior to the filing of the list of delinquent taxes with the County scheduled for July 1, 2020. In accordance with Section 22.9 of the City Charter, it is requested that the City Council authorize the City Comptroller to pay the Treasurer of the Rye Neck UFSD the amount due at December 31, 2019.

Councilwoman Tarlow made a motion, seconded by Councilwoman Souza, to authorize payment of the December 31, 2019 balance of $280,643.59 to the Rye Neck Union Free School District taxes on February 29, 2020.

ROLL CALL
AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow
NAYS: None
ABSENT: None

7. Authorization for City Manager to retroactively enter into an Inter-municipal Agreement with Westchester County for the providing a Positive Youth Development Program

Corporation Counsel Wilson gave a brief update on this agenda item. In an effort to encourage municipalities to provide Positive Youth Development Programs, the County shall reimburse the City of Rye in an amount not to exceed $3,159 to provide Youth Council Programs as described in the attached agreement. The Agreement is for a one-year period commencing January 1, 2019 through December 31, 2020.

Councilwoman Souza made a motion, seconded by Councilman Mecca, to authorize the City Manager to retroactively enter into an Inter-municipal Agreement with Westchester County for the providing a Positive Youth Development Program.

ROLL CALL
AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow
NAYS: None
ABSENT: None

8. Approve appointments to the Boat Basin Commission from the October 2019 election.

Mayor Cohn explained that the Boat Basin Commission voted in October and the Council must approve the appointments. The appointments are as follows:

Commission Members	Expiration Date
Joe Pecora	12-31-21
Brendan Doyle	12-31-22
Matthew Malouin	12-31-22
Stephen Monaldo	12-31-22
Christian Magliano	12-31-22

Councilman Mecca made a motion, seconded by Councilwoman Tarlow, to approve the appointments.

9. Resolution to transfer $170,872.15 from the General Fund Contingency account to Legal Services account to cover expenses through the remainder of 2019. There is currently $245,000 available in the Contingency Fund.
Roll Call

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

RESOLVED, that the City Council authorize the transfer of $170,872.15 from the General Fund Contingency account to Legal Services account to cover expenses through the remainder of 2019.

ROLL CALL
AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow
NAYS: None
ABSENT: None

10. Consideration of a request from the Friends of Rye Nature Center to use the Village Green on April 19th from 11:00 a.m. to 4:00 p.m. (includes set-up and clean-up) for the first ever Rye Community Earth Day Awareness Celebration.

Christine Siller, Rye Nature Center, said that they are proposing an Earth Day Awareness Celebration to be held April 19, 2020, to honor the 50th anniversary of when Earth Day began. This has been a widespread movement to help our planet. Ms. Siller formally requested use of the Village Green for the event. She said that environmental groups in the community, such as Rye Sustainability, would be present and active at the event.

Councilwoman Tarlow made a motion, seconded by Councilwoman Souza and unanimously carried, to approve a request from the Friends of Rye Nature Center to use the Village Green on April 19th from 11:00 a.m. to 4:00 p.m. (includes set-up and clean-up) for the first ever Rye Community Earth Day Awareness Celebration.

11. Consideration of a request by the Rye Chamber of Commerce for the use of the southern end of the City's Car Park #2 on Sundays from May 10, 2020 through December 6, 2020 from 6:30 a.m. to 3:30 p.m. for the Rye Farmers Market. Market hours are from 8:30 a.m. to 2 p.m.

Councilwoman Tarlow made a motion, seconded by Councilwoman Souza and unanimously carried, to approve a request by the Rye Chamber of Commerce for the use of the southern end of the City's Car Park #2 on Sundays from May 10, 2020 through December 6, 2020 from 6:30 a.m. to 3:30 p.m. for the Rye Farmers Market. Market hours are from 8:30 a.m. to 2 p.m.

12. Consideration of a request by Christ's Church for use of City streets on Sunday, June 7, 2020 and on Sunday, September 13, 2020 from 9:00 a.m. to 2:00 p.m. for their semi-annual picnics.

Councilwoman Tarlow made a motion, seconded by Councilwoman Souza and unanimously carried, to approve a request by Christ's Church for use of City streets on Sunday, June 7, 2020 and on Sunday, September 13, 2020 from 9:00 a.m. to 2:00 p.m. for their semi-annual picnics.

13. Consideration of a request by the Westchester County chapter of the National Alliance on Mental Illness (NAMI) to have a ribbon initiative in the Central Business District during the month of May 2020.

Councilwoman Tarlow made a motion, seconded by Councilwoman Souza and unanimously carried, to approve a request by the Westchester County chapter of the National Alliance on Mental Illness (NAMI) to have a ribbon initiative in the Central Business District during the month of May 2020.

14. Consideration of request for permission to close a section of Purchase Street for the 68th Annual Celebration of the Halloween Window Painting Contest.

Councilwoman Tarlow made a motion, seconded by Councilwoman Souza and unanimously carried, to approve the request for permission to close a section of Purchase Street for the 67th Annual Celebration of the Halloween Window Painting Contest.

15. Consideration of request from Rye Recreation to hold the Annual Food Truck Festival Saturday, June 20, 2020. The Council will have to waive § 144-8D and G of the City Code.

Councilwoman Souza made a motion, seconded by Councilman Mecca, to waive City Code Chapter 144 (8)(d) and (g) regarding food trucks and approve the request by the Rye Free Reading Room to have three food trucks to hold the Annual Food Truck Festival Saturday, June 20, 2020.

ROLL CALL
AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow
NAYS: None
ABSENT: None

16. Consideration of request from Rye Recreation to hold the annual Turkey Run road race on Saturday, November 28, 2020.

Councilwoman Tarlow made a motion, seconded by Councilwoman Souza and unanimously carried, to approve the request to hold the annual Turkey Run road race on Saturday, November 28, 2020.

17. Consideration of a request from Sally Rogol, the superintendent of Rye Recreation, to have a food truck for Summer Camp 2020 at Rye Recreation. The City Council will have to waive § 144-8D and G of the City Code.

Councilwoman Souza made a motion, seconded by Councilman Mecca, to waive City Code Chapter 144 (8)(d) and (g) regarding food trucks and approve having a food truck for Summer Camp 2020 at Rye Recreation.

ROLL CALL
AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow
NAYS: None
ABSENT: None

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

Mayor Cohn made the following appointments and reappointments to the Boards, Commissions and Committees, which the Council approved:

Board of Ethics
Edward Stein appointed for a three-year term, expiring December 31, 2022

Flood Advisory Committee
Harvey Geller appointed for a three-year term, expiring December 31, 2022

Planning Commission
Andrew Ball, retroactively reappointed for a three-year term, expiring December 31, 2021
Laura Brett, retroactively reappointed for a three-year term, expiring December 31, 2021
Steven Secon, reappointed for a three-year term, expiring December 31, 2022
Richard Schaupp appointed for a three-year term, expiring December 31, 2022
(Nicholas Everett remains Chair)

Recreation Commission
Bart DiNardo, retroactively reappointed for a three-year term, expiring December 31, 2021
Lisa Dempsey, retroactively reappointed for a three-year term, expiring December 31, 2021

Rick McCabe, retroactively reappointed for a three-year term, expiring December 31, 2021
Shelley Wolfson, retroactively reappointed for a three-year term, expiring December 31, 2021
Louis Rollano appointed for a three-year term, expiring December 31, 2022
(Bart DiNardo remains Chair)

Senior Advocacy Committee
Brenda Wilkin, appointed for a three-year term, expiring December 31, 2022

All were in favor.

19. Old Business/New Business.

There was nothing discussed under this agenda item.

20. Adjournment

There being no further business to discuss, Councilwoman Souza made a motion, seconded by Councilwoman Johnson and unanimously carried, to adjourn the meeting at 9:10 P.M.

Respectfully submitted,

Carolyn D'Andrea
City Clerk

CITY COUNCIL AGENDA

DEPT.: City Manager DATE: February 26, 2020

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Discussion of Change in Recycling Pickup Schedule regarding paper, plastic, and glass materials.

FOR THE MEETING OF:
February 26, 2020

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Council discuss the potential change in the recycling pickup schedule.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: The City is considering some changes to the recycling schedule with regard to the collection of paper, glass and plastic materials.

CITY OF RYE
Department of Public Works

Interoffice Memorandum

To: Greg Usry, City Manager

From: Ryan Coyne, City Engineer

Date: February 21, 2020

Subject: Implementation of Adjustments to Residential Recycling Pickup

As you are aware, in connection with the recent acquisition of new sanitation vehicles, staff and the City Council engaged in a multi-year discussion regarding the collection methods and frequency of residential sanitation and recycling pickups. Currently, the City offers twice-per-week rearyard garbage collection, once-per-week curbside bulk garbage collection, and once-per-week curbside collection of both pulp (paper and cardboard) and comingled (cans and bottles) recyclables. Additionally, the City collects greenwaste, metal, and electronics goods from the curb on non-holiday weeks.

Prior to the purchase of the new vehicles and at the request of the Council, staff presented various options to modify collection of waste products in an effort to optimize service efficiencies, staffing levels, and capital expenditures. Many options were considered including reducing collection frequency (once per week garbage collection), eliminating rearyard garbage pickup, use of automated collection vehicles, privatization, and various combinations thereof. After a lengthy discussion, staff was directed to purchase the current fleet of rear load refuse collection vehicles and the vehicles have been in service since last fall.

The trucks were purchased with the understanding that the collection days for curbside recycling pickup would require a modest adjustment. Starting May 1, residents will be required recycle pulp on their first garbage day of the week and commingled on their second garbage/ bulk day of the week. Currently, residents recycle both pulp and comingled items on the same day. All other collections including garbage, bulk, greenwaste, etc. will remain unchanged.

Over the next few weeks, the City will begin the process of disseminating information to residents regarding the changes.

CITY COUNCIL AGENDA

DEPT.: City Manager DATE: February 26, 2020

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Further consideration of new welcome signs and potential renewal by residents of existing athletic achievement signs.

FOR THE MEETING OF:
February 26, 2020

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Council discuss the potential new welcome signs and potential renewal by residents of existing athletic achievement signs.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: The Landmarks Committee has approached the City to consider new welcome signs at the City limits. The purpose of this item is to discuss and hear from the public regarding the potential new signs and existing athletic achievement signs.

CITY COUNCIL AGENDA

DEPT.: City Manager DATE: February 26, 2020

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Authorization for the City Manager to extend the contract with attorney Joel R. Dichter, Esq. of Dichter Law LLC by an amount of $10,000 for professional fees and services in order to continue to represent the City in the proceedings before the New York Public Service Commission on the petitions of United Water Westchester to raise rates and possibly merge rates within the United Water New Rochelle district.

FOR THE MEETING OF:
February 26, 2020

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Council authorize the City Manager to extend the agreement.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: The City engaged attorney Joel R. Dichter, Esq. of Dichter Law LLC in March of 2019 to represent the City in the proceedings before the New York Public Service Commission on the petitions of United Water Westchester to raise rates and possibly merge rates within the United Water New Rochelle district. The Villages of Port Chester and Rye Brook are joining the City of Rye in these proceedings. Due to the length of the settlement negotiations and further utilization of an expert witness, Joel Ditcher requests approval of an additional $30,000 (or $10,000 per municipality), for professional fees and costs.

DICHTER LAW LLC

ATTORNEYS AT LAW
118 N. BEDFORD RD.
SUITE 300
MOUNT KISCO, N.Y. 10549

TELEPHONE: (212) 593-4202
FAX: (212) 994-5394
Website: www.dichterlaw.com

JOEL R. DICHTER
Dichter@dichterlaw.com

To: Chris Bradbury, Chris Steers and Greg Usry
From: Joel R. Dichter

RE: Suez Water Westchester - Case Update

Date: February 6, 2020

As you know, Suez Water and the PSC Staff have entered into a settlement that I have been authorized to join on your behalf. The ALJ's have set out a schedule for review of the settlement's terms. To recap, the increase in revenues under the "Joint Proposal" are:

	Percentage Increase	**Base Rate Increase**
Rate Year One	2.7%	$1,799,727
Rate Year Two	5.7%	$3,949,385
Rate Year Three	5.1%	$3,801,895
Rate Year Four	6.6%	$5,108,761

The Settlement is subject to approval by the Public Service Commission. The PSC will hold an evidentiary hearing in Albany on March 11, 2020, on the propriety of the settlement. Participants will have an opportunity to present testimony and conduct cross examination. Testimony in support of, or in opposition to, the settlement is due to be filed by February 28, 2020. I will be submitting the testimony of our expert witness, Dave Peterson, to the commission on the issue of maintaining separate rates for District 1 and District 2. In that regard, counsel for New Rochelle indicates they would be open to submitting a joint statement in support of the settlement. That would not occur until after the evidentiary hearing.

Due to the length of the settlement negotiations and further utilization of an expert witness, I would request approval of an additional $30,000 (or $10,000 per municipality), for professional fees and costs. Please let me know if that is possible or if you have any questions.

Sincerely,

Joel R. Dichter

CITY COUNCIL AGENDA

DEPT.: City Manager DATE: February 26, 2020

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Consider setting a public hearing for March 11, 2020 to amend Chapter 144 (Peddling and Soliciting) to clarify requirements and soliciting law.

FOR THE MEETING OF:
February 26, 2020

RECOMMENDATION: That the Council set the public hearing.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND:
Some updated language is necessary to clarify our solicitor and peddling law.

Chapter 144. Peddling and Soliciting

[HISTORY: Adopted by the Council of the City of Rye 2-1942 as Art. 4 of Ch. 3 of the General Ordinances; amended in its entirety 9-15-2010 by L.L. No. 6-2010. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Licenses — See Ch. **125**.

§ 144-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CHARITABLE

The purpose of an organization which has received a letter of determination approving tax exempt status under Title 26 of the United States Code § 501(c)(3) or the purpose of a school club, recognized and affiliated with a public or private school, having a program with annual campaigns to support the public or private school club.

COMMERCIAL

The purpose of solicitation which is not noncommercial, as defined in this section.

CORPORATION

The meaning consistent with the New York State Business Corporation Law and the New York State Not for Profit Corporation Law.

ESTABLISHED PLACE OF BUSINESS

A building or store in which or where the person transacts business and deals in the goods, wares and merchandise he or she hawks, peddles or solicits for during regular business hours.

HAWKER AND PEDDLER

Any person, either principal or agent, who, from any boat or in any public street or public place or by going from house to house or place of business to place of business, on foot or on or from any animal or vehicle, sells or barters, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except milk, newspapers, periodicals, books and pamphlets.

NONCOMMERCIAL

The purpose of solicitation which is charitable, as defined in this section, religious or political.

PERSON

Any individual, firm, partnership, joint venture, association, social club, league, fraternal organization, joint-stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group acting as a unit. The word "person" shall include the definition of corporation.

SOLICITATION

A.

The act of any person, whether a resident of the City or not, traveling by foot, vehicle or any other type of conveyance who goes from house to house, business to business, from place to place or in or along any highway, street or sidewalk within the City either:

(1)

Requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value;

(2)

Taking or attempting to take orders for the sale of any goods, wares, merchandise or services of any kind, or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets; and

(3)

Selling and making immediate delivery of any goods, wares, merchandise or services of any kind or description, commonly referred to as "peddling."

B.

Solicitation shall not include the following so long as the person is not requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value:

(1)

A person communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious or charitable nature;

(2)

A person seeking to influence the personal belief of the occupant of any residence or business in regard to any political or religious matter;

(3)

A person seeking to obtain, from an occupant of any residence or business, an indication of the occupant's belief in regard to any political or religious matter;

(4)

A person conducting a poll, survey or petition drive in regard to any political matter; and

(5)

A person carrying, conveying, delivering or transporting dairy products, newspapers, or other goods to regular customers on established routes or to the premises of any person who had previously ordered such products, goods or services and is entitled to receive the same.

SOLICITOR

Any person, whether a resident of the City or not, engaged in solicitation.

§ 144-2. Exemptions.

Nothing contained in this chapter shall be deemed to apply to any of the following:

A.

A sale conducted pursuant to an order of any court.

B.
A wholesaler selling articles to dealers or merchants who have an established place of business in the City of Rye.

~~C.~~
~~A child 18 years of age or under who resides within the City or Rye and who solicits or peddles on behalf of a charitable, religious, athletic, social, educational or civic organization, including but not limited to the Boy Scouts, Girl Scouts, Cub Scouts, Brownie Scouts, clubs, classes or organizations sponsored by any school located within the City of Rye of which such child is a member.~~[DCE1]

D.
The peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities on their own land, provided that they have otherwise complied with all applicable licensing and health and safety requirements of any other competent governmental body or agency, as well as the Zoning Code of the City, and the sale takes place from a stationary location upon property owned or leased by the seller of such goods.

E.
A not-for-profit organization's sale of food ancillary to a fundraising event, such as a picnic or carnival, that lasts no longer than five consecutive days. This exemption shall not apply to any door-to-door peddling or soliciting.

F.
Any person holding a license pursuant to Section 32 of the General Business Law, "Licenses to veterans of the armed forces of the United States."

§ 144-3. License required.

It shall be unlawful for any person to act as a hawker, peddler or solicitor, as herein defined, without first having obtained a license from the Clerk. The license shall be carried on the person of the licensee at all limes while engaging in peddling or soliciting and shall be exhibited by the licensee to any person on demand. A picture of the licensee shall appear on the valid license.

§ 144-4. Certificate for equipment.

The application for a license shall be accompanied by a certificate from the Sealer of Weights and Measures of the County of Westchester, certifying that all weighing and measuring devices to be used by the applicant have been examined and approved, if applicable.

§ 144-5. License application.

To obtain a license to solicit, peddle or hawk within the City of Rye, a person shall make a written application to the Clerk in a form prescribed by the Clerk and provide the following information:
A.
The full name of the applicant, including any nicknames commonly used, home address, telephone number, any mobile telephone number or email address used on a regular basis, date of birth and social security number.

B.

A valid driver's license with a clearly delineated license number and state of issuance or other acceptable proof of identification;

C.
If the applicant works for another person or entity of any nature, the name, address, telephone number, email address, and website address of the person or entity to the extent such exists;

D.
A brief description of the solicitation business to be conducted, and the intended area where the business is to be conducted if less than the entire residential area of the City;

E.
Two photographs, two inches by two inches in size, full face on a white background, taken of the applicant within the prior sixty-day period of time which accurately reflect the appearance of the applicant on the date of the application;

F.
An affidavit that the applicant is not disqualified because of prior criminal history and whether the applicant has ever been convicted of a crime and, if so, under what name, with a listing of such conviction, including crime jurisdiction, date and sentence imposed.

G.
If the solicitor is a minor (under the age of 16), a notarized authorization by the applicant's parent or legal guardian. The authorization form is part of the application form.

H.
A description of the vehicle which the applicant wishes to use in carrying out his business or occupation as well as the name of the vehicle owner and registration details.

I.
County Health Department permit number, if a food vendor.

J.
If peddling or soliciting for a corporation, the state in which it is incorporated and the names of its officers along with a copy of its certificate of incorporation.

§ 144-5.1. Criminal background check.

This section shall only apply to commercial solicitation.
A.
The City of Rye shall initiate a criminal history background check of prospective commercial solicitors, including those persons acting on behalf of an employer or other person.

B.
The criminal background check shall not be initiated without the written consent of the person.

C.
A license shall not be issued to any person who refuses to consent to or cooperate in the securing of a criminal history record background check.

~~D.~~
~~Each applicant shall submit two sets of fingerprints and any other necessary information to L-1 Identity Solutions (or other outsourcing agency under contract with the New York State Division of Criminal Justice Services [DCJS]) for processing. In addition, a certified check or money order, in the amount~~

~~specified by and made payable to DCJS to cover the cost of processing fingerprints, shall accompany the application.~~

E.
The City of Rye Police Commissioner and/or his designee shall be responsible for reviewing the criminal history record information (CHRI) disseminated by DCJS. All applicants requiring a background check must have the results of their background check reviewed by the Police Commissioner and/or his designee prior to submitting their application to the City Clerk.

F.
If a prospective applicant has been convicted of a specified criminal activity, any decision regarding such prospective applicant's fitness for a license must be made upon consideration of New York State Correction Law §§ 701 to 703-b and §§ 751 to 753.

§ 144-5.2. Expiration; renewal; revocation; denial; appeal.

The following provisions shall apply to licenses for commercial solicitation:
A.
All licenses granted under the provisions of this chapter shall be reviewed annually and may be renewed thereafter, unless sooner revoked.

B.
Prior to the expiration of a license and upon application for renewal of the license, the Clerk shall determine if the applicant, peddler or solicitor has acted in compliance with the applicable provisions of this chapter and conditions of the license.

C.
The license may be renewed upon a determination that the solicitor or peddler has substantially complied with the terms and conditions of the permit and the requirements of this chapter.

D.
Renewal fees shall be established by a resolution of the City Council and may be amended from time to time.

E.
If it is determined that the solicitor or peddler has not been in compliance with any of the provisions of this chapter, the license shall not be renewed.

F.
The Clerk may revoke any license granted under the provisions of this chapter for any of the following reasons:
(1)
The applicant provided false, misleading or misrepresented information in procuring the license;

(2)
The applicant or any person who worked on behalf of or with the applicant failed to comply with the requirements of this chapter;

(3)
The applicant or any person working on behalf of or who worked on behalf of or with the applicant is convicted of violating any federal, state or local law while in the course of operating under the license;

(4)

The activities for which the license was granted were or are being conducted in a manner that is detrimental to the public health, safety, peace or welfare.

G.
When a license has been revoked, no other license shall be issued under the provisions of this chapter to the same applicant within one year of the date of revocation.

H.
An application for a license under this chapter may be denied for the following reasons:
(1)
The applicant fails to cooperate with or consent to the criminal background check as stated in this chapter.

(2)
An applicant's background check reveals a conviction for any criminal offense including, but not limited to, violent crimes, sexual assault, possession of a controlled substance, theft, fraud or burglary.

(3)
Fraud, misrepresentation or false statement in the application for the license.

(4)
Fraud, misrepresentation or false statement made in the course of carrying out the applicant's trade, business or occupation.

(5)
Any violation of this chapter.

(6)
Carrying out of the licensed business, trade or occupation in an unlawful manner or in such a way as to breach the peace or to constitute a menace to the health, welfare or safety of the public.

(7)
The license shall not be transferable or assignable. In the event that a licensee shall permit any other person to possess or use such license, such license shall automatically be revoked, and the licensee shall thereby be guilty of violating this chapter, and no application for a further license may be made for a period of one year from the date of revocation.

(8)
Any applicant who has had a license denied or revoked by the Clerk may appeal to the City Manager, in writing, within 30 days of the receipt of the denial or revocation. The City Manager will thereafter hold a hearing within 45 days of receipt of the demand for such hearing to review the determination of the Clerk.

§ 144-6. License fee.

The annual license fees shall be set annually by resolution of the City Council before adoption of the budget for the following year for each license issued pursuant to this chapter.

§ 144-7. Name and address on vehicle.

Every vehicle used by a licensed hawker, peddler or solicitor in or about his or her business shall have the name of the licensee and his or her address plainly, distinctly and legibly painted in letters and

figures at least two inches in height in a conspicuous place on the outside of the sides of every such vehicle, and such name and address shall be kept so painted plainly and distinctly at all times while such vehicle is in use during the continuance of the license.

§ 144-8. Restrictions.

A licensed hawker, peddler or solicitor shall:

A.
Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.

B.
Keep the vehicle and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.

C.
Not blow a horn, ring a bell or use any other noisy device to attract public attention to his or her wares, or shout or cry out his or her wares.

D.
Not stand nor permit the vehicle used by him or her to stand in one place in any public place or street for more than 10 minutes or in front of any premises for any time if the owner or lessee of the ground floor thereof objects.

E.
Not sell any confectionery or ice cream within 250 feet of any school property between the hours of 8:00 a.m. and 4:00 p.m. on school days.

F.
Not permit any vehicle used by him or her to stop or remain on any crosswalk.

G.
Not create or maintain any booth or stand, or place any barrels, boxes, crates or other obstructions, upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

§ 144-8.1. Restricted hours.

No person while conducting the activities of peddler or solicitor shall enter upon any private residence, knock on doors, or otherwise disturb persons in their residence between the hours of 8:30~~00~~ p.m. and 9:00 a.m.

§ 144-9. Written orders; duplicates.

All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

§ 144-10. "Do not knock" registry.

A.
Any owner or occupant of property located in the City who wishes to prohibit commercial soliciting on the premises shall complete a form available in the City Clerk's office and on the City's website. The completion of the form will allow the owner/occupant's premises to be included on a list of properties that do not permit commercial solicitation (herein referred to as the "do-not-knock registry" or "registry").

B.
In order to be removed from the registry, the owner and/or occupant must complete a form indicating that he/she does not want his/her property to be included on the registry.

C.
Any owner and/or occupant who has requested enlistment on the do-not-knock registry, pursuant to this chapter, shall be able to purchase from the City, for a nominal fee, a sticker or sign for display indicating enlistment on the do-not-knock registry.

D.
All solicitors shall obtain the current do-not-knock registry at the time of issuance of a permit or at the time of registration to solicit pursuant to the provisions of this chapter.

E.
Commercial ~~S~~solicitors shall not solicit at any premises identified on the then current do-not-knock registry.

F.
It shall be the responsibility of the solicitor to check each residence for the presence of such signage and to obtain updated copies of the registry.

§ 144-11. Unwanted solicitations prohibited.

A.
It is unlawful for any person to go upon, ring the bell, knock on the door of or attempt to gain admission to the premises of any residence, dwelling or apartment in the City of Rye where the owner, adult occupant or other person in control thereof has expressed his objecting to such activity either by explicit instructions, oral or written, or, in the case of commercial solicitation, has posted a sticker or sign or has registered for the City's Do Not Knock Registry pursuant to § 144-10, ~~or by posting a sticker or sign indicating the location is listed on the City's do-not-knock registry pursuant to § **144-10**,~~ or by posting a sign or decal bearing the words "No Solicitation" or words of similar import such as: "No Solicitors," "No Solicitation," "No Soliciting," "No Peddlers," or "No Trespassing," provided the signage has letters at least one inch in height, and is posted conspicuously so that it can be seen by persons approaching the front entry of the residence or at the front doorway, or by persons assisting a solicitor who has such a visual impairment as to be unable to see the sign.

B.
Activities related to a service requested by the owner or occupant of the property and undertaken in the ordinary course of business, including but not limited to deliveries of utility notices, telephone directory deliveries, regular newspaper deliveries, work order notices and service inquiries, are presumed to be requested or invited for the purpose of this section.

C.
Nothing in this section shall be construed to prohibit the distribution of leaflets, pamphlets or other literature such as commercial, political or religious material distributed in a lawful manner.

§ 144-11.1. Penalties for offenses.

My violation of the provisions of this chapter shall be punishable as provided in § **1-15** of the Code of the City of Rye and as otherwise provided herein.

CITY COUNCIL AGENDA

DEPT.: City Manager's Office DATE: February 26, 2020

CONTACT: Greg Usry, Interim City Manager

AGENDA ITEM: Resolution to transfer $380,326.48 from the City of Rye Capital Reserve Fund for the City's share of Rye Town Park capital improvements.

FOR THE MEETING OF:
February 26, 2020

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the City Council approve the following resolution:

RESOLVED, that the City Manager is authorized to transfer $380,326.48 from the City of Rye Capital Reserve Fund to cover the cost of the City's share of Rye Town Park capital improvements.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: The City of Rye is responsible for 39.278% of Rye Town Park capital contributions. In 2019 the City budgeted $50,000 for Rye Town Park operations and capital contributions for the 2018 fiscal year. Per invoices received through 12/31/2019, the City's share of capital contributions is $430,326.48. The City is expected to be reimbursed $194,157.45 from several grants. See attached.

Rye Town Park Capital Expenditures 1/1/2018 through 12/31/2019

Item	Gross Amount	City Share 39.278%	Expected Reimbursable Portion	Net Cost
Bathhouse Roof	615,551.94	241,776.49	98,195.00	143,581.49
Seawall Building	165,011.67	64,813.28	64,813.28	0.00
Parking Kiosks	105,434.51	41,412.57	0.00	41,412.57
Bathhouse Int/Ext	46,390.92	18,221.43	18,221.43	0.00
Beach Ramp	34,950.21	13,727.74	13,727.74	0.00
Grant Writing	33,583.20	13,190.81	0.00	13,190.81
Mold Remediation	30,998.57	12,175.62	0.00	12,175.62
Lease pmt Kiosks	17,224.06	6,765.27	0.00	6,765.27
Office Repairs	12,473.32	4,899.27	0.00	4,899.27
Parking Lot	9,903.75	3,889.99	0.00	3,889.99
Lease for permit system	8,641.78	3,394.32	0.00	3,394.32
Miscellaneous	7,262.50	2,852.56	0.00	2,852.56
Benches	4,573.99	1,796.57	0.00	1,796.57
2 Wet Mats	3,591.20	1,410.55	0.00	1,410.55
	1,095,591.62	430,326.48	194,957.45	235,369.02