

CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, May 3, 2017, at 7:30 p.m. at the **Square House**. *The meeting will move from the Square House to Council Chambers in City Hall at approximately 8:45 p.m.*

AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved minutes of the regular meetings of the City Council held April 5, 2017 and April 19, 2017, the special meetings of the City Council held April 17, 2017 and April 21, 2017 and the Joint Meeting of the City Council and the Rye City School District Board of Education held April 22, 2017.
5. Announcement of the winner of the Rye Sustainability Leadership Award.
6. Issues Update/Old Business.
7. Consideration of a Resolution regarding the City of Rye's Policy of Immigration Enforcement and Public Safety.
8. Residents may be heard on matters for Council consideration that do not appear on the agenda.
9. Consideration of the proposed addition to the Rules and Regulations of the City of Rye Police Department General Order #121.4 regarding a Social Media Policy.
10. Miscellaneous communications and reports.
11. New Business.
12. Adjournment.

The next regular meeting of the City Council will be held on Wednesday, May 17, 2017 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”.

* Office Hours of the Mayor by appointment by emailing jsack@ryeny.gov or contacting the City Manager’s Office at (914) 967-7404.



CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: May 3, 2017

CONTACT: Carolyn D'Andrea, City Clerk

AGENDA ITEM: Draft unapproved minutes of the regular meetings of the City Council held April 5, 2017 and April 19, 2017, the special meetings of the City Council held April 17, 2017 and April 21, 2017 and the Joint Meeting of the City Council and the Rye City School District Board of Education held April 22, 2017.

FOR THE MEETING OF:

May 3, 2017

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council approve the draft minutes.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Approve the minutes of regular meetings of the City Council held April 5, 2017 and April 19, 2017, the special meetings of the City Council held April 17, 2017 and April 21, 2017 and the Joint Meeting of the City Council and the Rye City School District Board of Education held April 22, 2017, as attached.

DRAFT UNAPPROVED MINUTES of
the Regular Meeting of the City Council of the
City of Rye held in City Hall on April 5, 2017, at
7:30 P.M.

PRESENT:

JOSEPH A. SACK Mayor
KIRSTIN BUCCI
EMILY HURD
JULIE KILLIAN
TERRENCE McCARTNEY
RICHARD MECCA
DANIELLE TAGGER-EPSTEIN
Councilmembers

ABSENT:

None

1. Pledge of Allegiance.

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

2. Roll Call.

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

3. Recognition of the Rye Recreation All Star Basketball Team.

Mayor Sack congratulated the Rye City Recreation Basketball Team for winning the Westchester County championship game. He stressed the importance of teamwork, which helped bring the team to success. Mayor Sack then announced the names of each member of the basketball team.

4. General Announcements.

Councilman McCartney announced that the Rye Golf Course was open for business, and the course looks great. He said that the short game area was ready and will be open soon. Councilman McCartney was happy to announce that membership numbers were up for this time of year with 55 new members. On the Recreation front, there is still space within the summer camp programs, as well as the spring programs, which can be found online. Lastly, he announced that Little League Opening Day will be April 22, 2017.

Councilwoman Hurd announced that the Landmarks Committee has withdrawn their application to move Mile Marker 25. She also announced that there was a Chamber of Commerce meeting on April 5, 2017, which featured a presentation by Bob Burns on the Family Medical Leave Act. She was pleased to announce that Ocean Grill will be opening at Rye Town Park for the season. Councilwoman Hurd also encouraged residents to visit Sarza, a new store located in the Central Business District. She also announced that there would be a presentation from New York Rising before the Council that evening. Lastly, Councilwoman Hurd announced that the Boat Basin was getting ready for spring.

Councilwoman Killian announced that April was National Volunteer Month. She stated that she attended the Volunteer New York breakfast on Friday. She recognized Rye resident, Henry King, who received the Go Green award for his beekeeping work at the Rye Nature Center. Councilwoman Killian encouraged anyone interested in volunteerism to look into Volunteer New York and their efforts.

Councilman McCartney announced that this Saturday, April 8, 2017, is the Easter Egg Hunt at Rye Recreation. He encouraged those with children to attend this annual event. He also assured that the volunteer firefighters that the undergoing PESH issues are a bump in the road. He also stressed the importance of volunteerism for the Fire Department.

Councilman Mecca, adding to Councilman McCartney's comments, announced the Annual Carol Kirby Easter Egg Hunt will be held on Saturday, April 8, 2017 at the Rye Recreation. The gates will open at 10:30 A.M. at the basketball courts. He encouraged those with families to attend.

Councilwoman Tagger-Epstein announced that the Healthy Yard signs have been distributed and she looks forward to seeing them on lawns throughout Rye. She announced that the Rye Sustainability Committee held a home energy and efficiency workshop at the Rye Free Reading Room on Saturday, April 1, 2017. Councilwoman Tagger-Epstein stated that she, Councilwoman Hurd, and Commissioner Corcoran recently attended a presentation by the Anti-Defamation League. She said they were looking forward to partnering with the league and bringing them into the community. She also stated that the City had its first recent Human Rights Commission meeting, and despite having one official appointee, the room was full. Of the topics discussed at the meeting, the Commission expressed concern over the startling fact that over ten percent of children ages 0-4 in Westchester County live in poverty. Councilwoman Tagger-Epstein stated that in response to this statistic, the Commission would like to look further into starting a diaper bank for families in need. The Carver Center will be holding a Baby Shower on April 29, 2017 for young mothers. The Commission and members of the community would like to contribute to that event. Information on donations will be forthcoming.

Mayor Sack announced that unfortunately, Louis Larizza, Jr. passed away on April 2, 2017. Louis Larizza, Sr. has appeared before the City Council many times, including most recently the senior affordable housing project. Mayor Sack expressed his condolences for this devastating time and stated the City Council's thoughts and prayers are with the family. There was a moment of silence.

Councilwoman Killian added that the Mr. Larizza was an important addition to the Port Chester basketball team and to his father's business in the community.

7. Presentation on the New York Rising Reconstruction Program projects.

This item was taken out of order. City Manager Serrano announced that the New York Rising grant representatives and engineers would present to the City Council.

Brian Platt, O'Brien & Gere, introduced Brad Cantor, NYS Governor's Office of Storm Recovery and Peter Johantgen, DASNY. He said that previously the group presented before the Council and gave an overview of the project. Since that time, one phase of the project had been completed. Mr. Platt presented a slide show of the project to the Council. He discussed the excavation of the pond and two primary objectives: to revisit the pond expansion project, and study the operation of the sluice gate.

Mr. Platt discussed the excavation of the pond and demonstrated the results by slideshow presentation. He then discussed comparisons in a before and after analysis. He discussed projected elevations of flood events for I-287 area, Purchase Street area, Highland Road area, and I-95 area.

He then demonstrated photographs of the sluice gate and provided a "before and after" analysis in connection with expansion of the pond.

There was general discussion over sewer issues.

Councilwoman Hurd stated that in 2007, the City had a massive storm that cost \$80 million in damage in Indian Village. As a result, the sluice gate was built to attempt to mitigate major flooding events. For whatever reason, the sluice gate had not been working correctly. She asked Mr. Platt if he thought that a result would be different if the City had a monetary match from the County to double the funding for the project. Mr. Platt responded that it could be considered. She asked Mr. Platt if there would be concrete data presented within the 2017 year.

Peter Johantgen, Project Manager with DASNY, responded that they provide mechanisms to engage engineers to carry out projects. He explained that DASNY's role was to navigate requirements of what comes with the funding. He said that when it comes to engaging a consultant, it is easy in the one sense that there are term contracts, but there is a lot of reporting. Mr. Johantgen discussed the history of compliance issues, among other items. He said that there must be compliance with federal and state requirements.

Bernie Althoff, 34 Mendota, addressed the Council. He confirmed that the City had until the end of 2019 to use the New York Rising funding. He discussed the project in general and the culvert involved and flooding that occurs. He encouraged the construction to begin as soon as possible.

Councilman Mecca commented that he remembered that the flooding has been an issue for a while. He recalled his time on the Flood Advisory Committee and the fact that these ideas had been on the table for many years. He stressed the importance of gathering the downstream data.

Mr. Platt emphasized the importance of a “step-by-step” approach.

Councilwoman Bucci asked is it possible to accelerate the next step. Mr. Platt responded that it was possible.

Councilwoman Tagger-Epstein said that the City has a lot of data from past studies. There was general discussion about moving forward.

Mayor Sack asked if it was possible for the engineer to return for the June 7, 2017 meeting.

Bob Gay, member of the Flood Advisory Committee, addressed the Council. He stated that he unfortunately learned nothing new from this presentation. He expressed concern that the sluice gate is programmed wrong. Mayor Sack distinguished that it is actually not being used at all at the moment. He expressed that understanding the rate of rainfall is important.

Paul Benowitz, 29 Ellsworth Street, addressed the Council. He recounted the history of flooding and expressed concern over the 50 and 100 year storms with respect to the sluice gate.

Mayor Sack adjourned the issue to June 7, 2017.

5. Draft unapproved minutes of the regular meeting of the City Council held March 15, 2017.

Councilman McCartney made a motion, seconded by Councilman Mecca and unanimously carried, to approve the minutes of the regular meeting of the City Council held March 15, 2017.

6. Issues Update/Old Business.

Mayor Sack announced that with respect to the proposed Starwood development at the former United Hospital site, the City has extended time to file an Article 78 by 30 days. He said that similarly with Playland, there was a decision from the Court that was unfavorable to Rye. This Council has not made a final decision yet on the issue of whether to appeal. Mayor Sack also announced that with respect to Mile Marker 25, the Landmarks Committee has withdrawn their proposal. The City still needs to take steps to preserve it where it is. Mayor Sack asked City Manager Serrano to provide recommendations on how to preserve and protect the stone.

**** Please note that the Tolling Agreement between the City of Rye and Crown Castle has been extended for an additional two-week period. The Public Hearings on Crown Castle will be held over; no decision or vote on the Crown Castle matter (Agenda Items #10 and #11) will occur until the April 19, 2017 City Council Meeting.**

8. Continuation of the Public Hearing to amend the Rye City Code: (a) local law Chapter 133, "Noise", by amending Section §133-4, "Points and method for measuring intensity of sound" to regulate placement and noise of telecommunication devices; (b) local law Chapter 167, "Streets and Sidewalks", to add a new 196, "Wireless Telecommunications Facilities", by amending Sections §196-3 through §196-8, §196-14, §196-17, §196-18, and §196-22 to regulate wireless facilities and structures regarding size, visual impact and permit process.

Deirdre Michalopoulos, 375 Oakland Beach Avenue, addressed the Council. She felt it was important to work together. She asked that the Council listen to resident concerns. She stated that Greenwood Union has offered to host a pole. She also mentioned the police station as a possible site, as well as Disbrow and other locations.

Mayor Sack reminded the community that the City does not have control over private land, and that technological concerns need to be considered.

Joe Van Eaton, Best Best & Krieger on behalf of the City, said that with drafting the ordinance, there is a basic choice that is made. There can be tall towers, or smaller nodes. The problem is, with Rye, any place you put tall towers, you will likely have a residential area. The whole point in putting in bigger facilities would be to eliminate DAS nodes. Mr. Van Eaton then said that the goal here is to try and figure out what is viable with the various locations. One location that could be considered is the netting behind the Rye Golf Club. The question will always be what will the people closest to that facility think.

Councilwoman Hurd asked if the current code draft would prohibit something like a slick stick on Greenwood Union.

Mr. Van Eaton responded that it would not prohibit something like that. He said the goal would be to protect even further than the community group proposed. He reminded that currently, there is a 100 foot height limit in the City code.

Josh Cohn, 24 Green Avenue, addressed the Council. He said there is no such thing as a citizen's litigation group. He discussed possible locations and the proposed code.

Diana Page, 86 Halsted Place, asked if the City had the propagation drafts from Verizon. Corporation Counsel Wilson responded that she understood that information would be forthcoming as early as this week. Ms. Page felt that in terms of the law, stealth facilities should be subject to a least intrusive means test. She also discussed the size of the boxes.

Mayor Sack commented that there have been almost 24 straight hours of public comment on the issues that have evolved overtime and the Council is considering all comments and advice.

Mecca commented that new technology of indoor DAS systems have started to permeate the market. This is where the industry is moving.

Leslie Snyder, Snyder & Snyder for Verizon Wireless, addressed the Council. She stated that Verizon submitted comments to the Council with regard to the proposed law. She submitted written comments to the most updated draft.

There was general discussion over a workshop with residential involvement on the issue.

Ben Stacks, 15 Sonn Drive, addressed the Council. He asked if the changes to Chapter 196 would apply to Crown Castle's application. Mayor Sack responded that there has been no answer on that item. He then brought up noise issues and concerns.

Meg Cameron, 5 Martin Butler Court, addressed the Council and expressed concern over the issue. There was general discussion over a possible workshop.

Paul Benowitz, 29 Ellsworth Street, addressed the Council. He asked that if there was a workshop, he be included to represent those who are against towers at Disbrow Park.

Katherine Ernst, 5 Halls Lane, stated support for a workshop. Councilwoman Bucci asked how a workshop would differ from a public hearing. There was general discussion over having a workshop.

Mayor Sack made a motion, seconded by Councilman Mecca, to continue this item to the April 19, 2017 City Council meeting.

Councilwoman Hurd made a motion to hold a special meeting of the City Council on the proposed code amendment on April 17, 2017 at 7:00 P.M.

ROLL CALL

AYES: Councilmembers Bucci, Hurd, Killian, and Tagger-Epstein
NAYS: Mayor Sack, Councilmembers McCartney and Mecca
ABSENT: None

9. Continuation of the Public Hearing regarding the request submitted by Crown Castle to amend their agreement with the City and for the installation of additional locations to their existing wireless telecommunications located in the City of Rye.

This item was put over to the April 19, 2017 meeting.

9A. Consideration of a Resolution regarding the City of Rye and its policy toward immigrants or citizenship status.

Councilwoman Tagger-Epstein stated that there has been an unease at the federal level with immigration. In line with what many other police departments and other municipalities are doing, the Human Rights Commission has been considering a public policy, to feel that people feel safe to report crimes and call emergency services. The proposed resolution states that the City of Rye Police Department would only question immigration status with the commission of a felony or driving under the influence.

Mayor Sack asked what other departments were doing and why. He said the City currently does not have a policy of immigration enforcement at the Police Department. Other departments throughout the county have less restrictive policies.

Valerie Leishman, 43 Wainwright Street, stated she was in support of the policy.

Tony Piscionere, 363 Boston Post Road, addressed the Council. He stated concern that someone who was driving while impaired by drugs would be protected under the proposed resolution. He also stated concern over the fact that a police officer would not be able to identify an individual based on an administrative warrant.

Allison Relyea, 12 Halsted Place, thanked the Council and Councilwoman Tagger-Epstein for hearing comments on the issue. Much of the concern that people have is that they will avoid calling for emergency services for fear of their immigration status.

Emily Dorin, 62 Palisade Road, addressed the Council. She read a letter from Larchmont regarding their stance on immigration. She stated support for the policy.

Andrea Hesselkiel, 63 Overlook Place, addressed the Council. She stated support for the current policy.

Meg Cameron, 5 Martin Butler Court, stated support for the policy.

Mayor Sack recommended putting the matter over to the May 3, 2017 meeting.

Randy Neuringer, 6 Redfield Street, asked about the process of passing a resolution.

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

There was nothing discussed under this agenda item.

11. Authorization for the City Manager to enter into an Agreement with the County of Westchester for 2017-2018 Prisoner Transportation Services.
Roll Call.

City Manager Serrano explained that this is a routine IMA with the County to benefit local communities, which reimburses our officers to transport the prisoners between the municipal court and Westchester County. This is done every two years.

Councilman Mecca made a motion, seconded by Councilman McCartney, to authorize the City Manager to enter into an agreement with County of Westchester for 2017-2018 Prisoner Transportation Services.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca and Tagger-Epstein
NAYS: None
ABSENT: None

12. Resolution to amend the Nominations, Elections and Voting Eligibility procedures for the Rye Golf Club Commission regarding a Commission vacancy.

Councilwoman Bucci explained that in case of a vacancy on the Rye Golf Club Commission, a special election would no longer be needed.

Councilman McCartney made a motion, seconded by Councilwoman Bucci and unanimously carried, to amend the Nominations, Elections and Voting Eligibility procedures for the Rye Golf Club Commission regarding a Commission vacancy.

13. Consideration of the proposed changes to the Rules and Regulations of the City of Rye Police Department:

- General Order #102.8 regarding the operational guidelines of the Bicycle Patrol Unit
- General Order #103.7 regarding the carry and use of Oleoresin Capsicum (O.C.) Spray
- General Order #103.10 regarding the training, deployment, use and aftercare of Conducted Electrical Weapons
- General Order #115.3 regarding the procedures for the training of new police officers during post-academy training
- General Order #118.2 regarding a new performance tracking software program entitled Guardian Tracking

City Manager Serrano explained that Commissioner Corcoran has been working through each policy to make sure the language reflected organization and professionalism. This item was tabled to the April 19, 2017 meeting.

14. Consideration of a request by the Lustgarten Foundation Cancer Research Institute for use of city streets on Sunday, April 23, 2016 from 9:00 a.m. to 12:00 p.m. for their annual Westchester Pancreatic Cancer Research Walk.

Councilwoman Tagger-Epstein made a motion, seconded by Councilman Mecca and unanimously carried, to approve the request by the Lustgarten Foundation Cancer Research Institute for use of city streets on Sunday, April 23, 2016 from 9:00 a.m. to 12:00 p.m. for their annual Westchester Pancreatic Cancer Research Walk.

15. Miscellaneous communications and reports.

City Manager Serrano announced that the water use restrictions were still in place, but Suez hopes to relax the restrictions by mid-April. He reminded residents to keep sprinklers off for the next few weeks. He also announced that the Purchase Street Improvement Project is on target with scheduling. The work should be done by the beginning of June 2017 if all goes to plan. He lastly announced that the MTA Central Avenue Bridge should hopefully be finished by fall 2017. Mayor Sack asked City Manager Serrano to formally send a request to State representatives to expedite this process.

16. New Business.

There was nothing discussed under this agenda item.

17. Adjournment.

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilman McCartney to adjourn the regular meeting of the City Council and enter into executive session to discuss personnel matters at 11:45 P.M.

Respectfully submitted,

Carolyn E. D'Andrea
City Clerk

DRAFT UNAPPROVED MINUTES of
the Special Meeting of the City Council of the
City of Rye held in City Hall on April 17, 2017, at
7:30 P.M.

PRESENT:

KIRSTIN BUCCI
EMILY HURD
JULIE KILLIAN
DANIELLE TAGGER-EPSTEIN
TERRENCE McCARTNEY
Councilmembers

ABSENT:

JOSEPH A. SACK, Mayor
RICHARD MECCA, Councilmember

1. Pledge of Allegiance.

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

2. Roll Call.

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

3. Discussion of the proposed amendments to the Rye City Code regarding telecommunications:

- Local Law Chapter 133, “Noise”, by amending Section §133-4, “Points and method for measuring intensity of sound” to regulate placement and noise of telecommunication devices.
- Local Law Chapter 167, “Streets and Sidewalks”, to add a new Article IV “Placement of Permanent Facilities in the Rights of Way”, Sections §167-66 through §167-71, to regulate placement of devices in the right of way.
- Local Law Chapter 196, “Wireless Telecommunications Facilities”, by amending Sections §196-3 through §196-8, §196-14, §196-17, §196-18, and §196-22 to regulate wireless facilities and structures regarding size, visual impact and permit process.

Deputy Mayor Killian introduced the issue and stated that the application of Crown Castle was submitted April 13, 2016, followed by 23 hours of public hearings, Council community discussions, and other opportunities for community input on Crown Castle and on telecommunications issues. After hearing resident feedback, the Council decided to look at the current Code legislation for future applications.

Councilwoman Hurd identified issues that she felt were most important. She identified the issues of setback requirements, height requirements grandfathering of existing facilities, 6409 modifications, application process, and others.

Councilwoman Tagger-Epstein asked about size and the base of structures.

The following issues, comments and concerns were made by the public and discussed at the meeting:

- Ideal Locations for Stealth Facilities
- Noise
- Effect on Private Property – specifically the section of Loudon Woods. The City does not control the ROW on private property. Any carrier/company would need to seek permission for installation from the private property owner.
- Chapter 196.5 Special Use Permit
- Chapter 196.6 Special Use Permit Application
- Chapter 196.17 Recertification – strengthening wording
- Grandfathering in hardware
- 6409 Modifications
- Telecommunications Application Process
- Base Requirements for a Slick Stick/Pole Base
- Legislation for Slick Sticks/Large Poles
- Definitions, in particular Concealment and Stealth
- Emphasis on minimizing visual impacts
- Chapter 196.15 - Public Hearing Required for Special Use Permit

4. Adjournment.

There being no further business to discuss at the special meeting, Councilwoman Tagger-Epstein made a motion, seconded by Councilwoman Hurd, to adjourn the meeting at 9:25 P.M.

Respectfully submitted,

Carolyn E. D'Andrea
City Clerk

DRAFT UNAPPROVED MINUTES of
the Regular Meeting of the City Council of the
City of Rye held in City Hall on April 19, 2017, at
7:30 P.M.

PRESENT:

JOSEPH A. SACK Mayor
KIRSTIN BUCCI
EMILY HURD
JULIE KILLIAN
RICHARD MECCA
DANIELLE TAGGER-EPSTEIN
Councilmembers

ABSENT:

TERRENCE McCARTNEY
Councilmember

The Council convened at 6:30 P.M. Councilman Mecca made a motion, seconded by Councilwoman Bucci and unanimously carried to immediately adjourn into Executive Session to discuss litigation and personnel matters. Councilman Mecca made a motion, seconded by Councilwoman Bucci and unanimously carried, to adjourn the Executive Session at 7:55 P.M. The regular meeting convened at 7:59 P.M.

1. Pledge of Allegiance.

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

2. Roll Call.

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

11. Authorization for the City Manager to enter into an agreement with BFJ Planning for the completion of a comprehensive update of the City of Rye Master Plan.
Roll Call.

This item was taken out of order. Nick Everett, Chair of the Master Plan Committee, was present at the meeting. Mr. Everett explained that there had been a thorough process to hire a consultant through a request for proposal on the Master Plan. The RFP was sent out nationally, with proposals due February 3, 2017. Three companies were interviewed, and the Committee felt strongly that BFJ Planning was the most appropriate candidate. They are familiar with the City of Rye, having done the central business district study among other items. The firm has done comprehensive plans for Rye Brook, Mamaroneck, Port Chester, Harrison and others. Mr. Everett stated the Committee's formal recommendation was for the City to retain BFJ Planning.

Councilwoman Killian made a motion, seconded by Councilman Mecca, to authorize the City Manager to enter into an agreement with BFJ Planning for the completion of a comprehensive update of the City of Rye Master Plan.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, Mecca, and Tagger-
Epstein
NAYS: None
ABSENT: Councilman McCartney

3. General Announcements.

Mayor Sack thanked Assistant City Manager Eleanor Militana for her work as Acting City Manager while City Manager Serrano was out.

Councilwoman Killian announced that the Second Annual Rye ACT Town Hall event was scheduled for 7:00 P.M. on May 9, 2017 at Rye High School. The event will feature a presentation on survey results on drugs and alcohol for grades 7-12. There will also be a talk by Dr. Dupont and breakout groups. Councilwoman Killian also announced that the Sustainability Committee has created a Rye Sustainability Committee leadership award. The following individuals have been nominated for the award: Scott Nelson, Rye Country Day School Headmaster, for his consistent and generous support for the green screen films, Christine Siller and Taro Ietaka of the Rye Nature Center, Jim Boylan, Rye Middle School Principal, for implementing a compost program, and Marc Dellicolli, Rye resident and assistant to the Chief Information Officer for the Westchester Department of Information Technology.

Councilman Mecca announced that the Rye Fire Department will be having a volunteer event on Sunday, April 23, 2017 between 10:00 A.M. and 2:00 P.M. at the Locust Avenue Firehouse.

Councilwoman Tagger-Epstein stated that the Jay Heritage Center would be holding its free daffodil event on April 20, 2017 from 1:00-4:00 P.M., followed by a fundraising event, sponsored by Wine at 5. Councilwoman Tagger-Epstein also announced that the Rye Sustainability Committee and CCAC planted its first tree on Purchase Street from the tree fund prior to the City Council meeting on April 19, 2017. She also encouraged citizens to support the Healthy Yard initiative by displaying the Healthy Yard lawn sign, designed by Liv McNamara.

12. Resolution to transfer funds donated to the *Branching out for Rye Campaign* to the General Fund, Shade Tree cost center.

Roll Call.

This item was taken out of order. Sarah Goddard, Sustainability Committee Chair, stated that the first tree from the Tree Fund was planted on Purchase Street. The funding

collected would need to be transferred to the DPW budget to maintain the plantings going forward. Ms. Goddard thanked the Girl Scouts who were also present at the tree planting, who helped with fundraising under the direction of Andrea Alban-Davies.

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

WHEREAS, the Branching out for Rye Campaign raised funds to purchase and plant trees for the City of Rye; and

WHEREAS, due to the generosity of campaign donors, an amount of \$3,750.00 was raised during the campaign; and

WHEREAS, the donations must be transferred into the project account as preparations are made to have the trees purchased and planted; be it therefore

RESOLVED, that the City Comptroller is authorized to transfer the amount of \$3,750.00 from the General Fund account to the General Fund Account "Shade Tree Project" for the purchase of trees using funds donated.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, Mecca, and Tagger-Epstein
NAYS: None
ABSENT: Councilman McCartney

4. Consideration of the election of the Chiefs of the Rye Fire Department.

This item was tabled until the May 3, 2017 meeting.

5. Approval of the election of one new member to the Rye Fire Department.

Councilman Mecca made a motion, seconded by Mayor Sack and unanimously carried, to approve the election of Kevin Ramsey to the Milton Point Engine and Hose Company.

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

Gerry Seitz, 141 Kirby Lane, made a statement to the Council. He referenced the resolution on immigration status which will be on the agenda for the May 3, 2017 meeting and felt that the resolution as written would be problematic for the City of Rye Police Department. He also expressed concern over the increase in taxes and asked the Council to

consider alternatives to control the increase going forward, such as an increase in sales tax and revenue increases.

13. Resolution to authorize expenditure of Police donations reserved for Police Programs for the purchase of items for the Adopt-a-School Program.

Roll Call.

This item was taken out of order. Acting City Manager Militana highlighted the following points:

- The Rotary Club donated \$1,500 to the Rye Police Department for their continuing efforts in the Police Department's Adopt-a-School Program (City Council approved at 12/21/16 Council Meeting)
- Eight designated police officers who volunteered to participate in this program educating students about many topics such as: Bullying, Dangers of Texting and Driving, Dangers of Drinking and Driving,
- Dangers of Drugs, How to deal with Peer Pressure, bike safety
- These funds will be used to purchase items to be used with the students

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

WHEREAS, the City Manager and the Public Safety Commissioner have approved a request of the Rye Police Department to purchase items to be used in the Adopt-a-School Program in the amount of \$294.54 with funds available in the police donations account, and;

WHEREAS, sufficient funds exist in the police donations account to comply with the aforementioned request of the Rye Police Department; now therefore be it;

RESOLVED, that \$294.54 be appropriated from the police donations account to increase 2017 General Fund Donations Reserved for Police programs.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, Mecca, and Tagger-Epstein
NAYS: None
ABSENT: Councilman McCartney

14. Resolution ratifying the appointment of one member to the Emergency Medical Services Committee for a three-year term expiring on June 30, 2020.

This item was taken out of order. Acting City Manager Militana stated the following points:

- The EMS Committee is made up of members from City of Rye, Village of Rye Brook and Village of Port Chester
- Meetings are attended by representatives of the three communities including the City Manager and the City Council Liaison Councilwoman Tagger-Epstein
- Bart DiNardo is a long term volunteer and member and is willing to continue his service

Mayor Sack made a motion, seconded by Councilwoman Killian and unanimously carried, to appoint Mr. Bart DiNardo City of Rye Community Representative, to the Emergency Medical Services Committee for a three-year term expiring on June 30, 2020.

15. Consideration of the proposed changes and additions to the Rules and Regulations of the City of Rye Police Department:

- General Order #102.8 regarding the operational guidelines of the Bicycle Patrol Unit
- General Order #103.7 regarding the carry and use of Oleoresin Capsicum (O.C.) Spray
- General Order #103.10 regarding the training, deployment, use and aftercare of Conducted Electrical Weapons
- General Order #115.3 regarding the procedures for the training of new police officers during post-academy training
- General Order #116.2 regarding promotions and appointments
- General Order #118.2 regarding a new performance tracking software program entitled Guardian Tracking
- General Order #118.10 establishing uniform guidelines on Training and Records
- General Order #120.10 establishing administrative and operational procedures to regulate the collection, reporting, processing and dissemination of intelligence information.

This item was taken out of order. Acting City Manager Militana explained that Public Safety Commissioner Corcoran has made it a priority to strengthen department measures by clarifying the language of various general orders.

Councilwoman Tagger-Epstein made a motion, seconded by Councilman Mecca and unanimously carried by the Council, to approve the proposed changes to the following General Orders:

- General Order #102.8 regarding the operational guidelines of the Bicycle Patrol Unit

- General Order #103.7 regarding the carry and use of Oleoresin Capsicum (O.C.) Spray
- General Order #103.10 regarding the training, deployment, use and aftercare of Conducted Electrical Weapons
- General Order #115.3 regarding the procedures for the training of new police officers during post-academy training
- General Order #116.2 regarding promotions and appointments
- General Order #118.2 regarding a new performance tracking software program entitled Guardian Tracking
- General Order #118.10 establishing uniform guidelines on Training and Records
- General Order #120.10 establishing administrative and operational procedures to regulate the collection, reporting, processing and dissemination of intelligence information.

6. Issues Update/Old Business.

Corporation Counsel Wilson updated the Council on the Starwood project and the Village of Port Chester. She stated she was happy to report that there are two separate pending agreements that should have been made, which would hopefully strengthen the City's position with the proposed development. With respect to the agreement between Starwood and the City of Rye, there are two major components: first, a three-tiered payment for traffic mitigation/ calming measures, and second, that in the case that an Article 78 is filed, the payments would not be received. She further explained that the second proposed agreement, between the City of Rye and the Village of Port Chester, focuses more on the dedicated turn lanes at Boston Post Road. The agreements contemplate the measures at which the driveway improvements would be added back into the project.

Mayor Sack thanked Corporation Counsel Wilson. He stated that the Council's focus has always been traffic mitigation for the adjacent Rye Park neighborhood. He thanked Councilman McCartney and Councilwoman Hurd for their work on this issue with the Litigation Committee. With these pending agreements, an Article 78 could be avoided. Councilwoman Hurd added that with the removal of the proposed turn lanes, these agreements would be very helpful.

Councilwoman Killian confirmed that the agreements would survive any subsequent owners of the property.

Mayor Sack made a motion, seconded by Councilwoman Hurd, to authorize the city manager to enter into these two agreements and adopt the following resolution:

RESOLVED, that the City Manager is herein authorized to enter into an agreement with PC 406 BPR, LLC and PC 999 High Street regarding the proposed development at the former United Hospital site; and now therefore be it

RESOLVED, that the City Manager is authorized to enter into an agreement with the Village of Port Chester regarding the proposed development at the former United Hospital site.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, Mecca, and Tagger-Epstein
NAYS: None
ABSENT: Councilman McCartney

Mayor Sack then made a motion, seconded by Councilman Mecca, to adjourn into Executive Session to discuss pending litigation matters with the City's attorney at 8:30 P.M. The Council adjourned Executive Session at 8:45 and re-entered the public meeting.

Mayor Sack stated that the Council must make a decision with respect to litigation with Playland, as an appeal filing would be due on Monday, April 24, 2017. He said that the Council was not ready to make a decision at the meeting, but anticipated that a vote on a course of action may occur at the next scheduled meeting on April 22, 2017.

7. Continuation of the Public Hearing to amend the Rye City Code: (a) local law Chapter 133, "Noise", by amending Section §133-4, "Points and method for measuring intensity of sound" to regulate placement and noise of telecommunication devices; (b) local law Chapter 167, "Streets and Sidewalks", to add a new 196, "Wireless Telecommunications Facilities", by amending Sections §196-3 through §196-8, §196-14, §196-17, §196-18, and §196-22 to regulate wireless facilities and structures regarding size, visual impact and permit process.

Councilwoman Hurd made a motion, seconded by Councilman Mecca and unanimously carried, to adjourn this matter to May 17, 2017.

8. Continuation of the Public Hearing regarding the request submitted by Crown Castle to amend their agreement with the City and for the installation of additional locations to their existing wireless telecommunications located in the City of Rye.

Marie Johnston, 556 Milton Road, addressed the Council. She stated that this is not the time to open the right of ways for current DAS nodes, as electronics equipment will be evolving.

Matt Fahey, 36 Franklin Avenue, addressed the Council. He thanked the Council for their commitment to the issue. He stated the Crown proposal should be denied. He felt that Crown had not undergone the appropriate application process, nor had provided alternatives. He mentioned that many residents had spoken against the project.

Chris Fisher, Cuddy & Feder, on behalf of Crown Castle, thanked the Mayor and Council for their consideration over the past year. He stated that one item of data and request, the 700 mHz data, was made available to the City. He said that the application had four tolling extensions and Crown had asked for any updated engineering reports throughout that process. He stated that any new information/report that was procured, specifically referring to a report by Engineer Ron Graiff, may go against the tolling agreement. He also stated that Crown had not been given Mr. Afflerbach's recent report. He discussed "Plan C" that was provided to the Council, population density, and nodes. Mr. Fisher stated he had provided correspondence to the City prior to the meeting, summarizing the questions presented and alternatives. He stated that Crown provided comments about competitors and their equipment allowed within the right of way in the City of Rye. He stated that there was a site visit to the Rye Golf Club by Crown and comments on that site were provided to the City. He stated that Crown believed it was appropriate for the Council to issue a negative declaration under SEQRA.

Mayor Sack thanked Mr. Fisher for his comments.

Joe Van Eaton, Best Best & Krieger on behalf of the City, stated that there were several issues before the Council. Firstly, there was a pending SEQRA determination. Second, there was a question on approving or denying the actual application and what has been presented so far. He clarified that the City's understanding of the tolling agreement would be to submit any reports that existed on April 12, 2017 had the City had them on that date. Unfortunately, the 700 mHz data was only received by Crown Castle on April 10, 2017. He clarified that Mr. Graiff, who submitted a second opinion report to the City, was hired by Best Best & Krieger, on the code amendment issues. Mr. Van Eaton acknowledged that there was information received by Crown prior to the meeting. He clarified a technical misunderstanding between Mr. Afflerbach and Crown Castle concerning the 700 mHz data; Mr. Afflerbach stated to Mr. Van Eaton that the 700 mHz data was vital. The City's consultants stated that all information that was requested was relevant to a determination. He said that the right-of-way use agreement does allow the City to reasonably review the plan and should not have more facilities than necessary to preserve the right-of-way. Mr. Van Eaton then said that the fact that a permit is signed for a structure in the right-of-way does not necessarily translate to full compliance with zoning. He stated that Chapter 196 applied to the application.

Mr. Fisher, Cuddy & Feder, responded to Mr. Van Eaton's comments. He stated surprise that the City's position was that Chapter 196 applies in this instance. He asked when Mr. Graiff was retained.

Mayor Sack asked if there was any comment on the report from Mr. Graiff now that Crown and its representatives had reviewed the report.

Mr. Van Eaton responded that Mr. Graiff had been retained on April 7, 2017.

Mr. Fisher stated that the reason that they believe it was a breach of the tolling extension because of Crown was owed more administrative due process.

Mayor Sack asked what the prejudice was with respect to the tolling agreement. Mr. Fisher responded that the City had retained Mr. Afflerbach in August 2016 and he had asked that any report be given to Crown Castle.

Esme Lombard, Crown Castle, stated that on a conference call on October 25, 2016, Mr. Afflerbach stated he did not need the 700 MHz data. Mayor Sack responded that on the contrary, the City Council asked for that data many times.

Mayor Sack stated that to avoid any prejudice claimed by Crown Castle, he and the Council would give Crown more time to respond, should they want it.

Mr. Fisher stated the applicant did not want more time.

Mr. Van Eaton responded that there had been a misunderstanding and that Mr. Afflerbach always wanted to see the 700 MHz data. He said he was troubled by the idea that there was a claim of prejudice, yet Crown stated it did not need more time to respond. Mr. Van Eaton stated that his recommendation would be that if Crown was claiming prejudice, an extension should be given.

Mr. Van Eaton asked if Crown was claiming prejudice.

Mayor Sack made a motion, seconded by Councilman Mecca, to adjourn into executive session to discuss attorney client privileged matters.

Mr. Van Eaton stated that the City does not agree that there was a violation of the tolling agreement. The tolling agreement by law gives a date that the shot clock applies. Nonetheless, out of a great deal of respect for Crown Castle, the City has offered to extend the time.

Mayor Sack announced that after one year of deliberation, at 10:03 PM on April 19, 2017, the public hearing on Crown Castle's application would end.

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

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, Mecca, and Tagger-Epstein
NAYS: None
ABSENT: Councilman McCartney

Corporation Counsel Wilson stated that the City had previously declared itself lead agency with respect to SEQRA. She read the following proposed Part II of the Environmental Assessment Form:

1. Impact on Land – NO
2. Impact on Geological Features – NO
3. Impacts on Surface Water – NO
4. Impact on Ground Water – NO
5. Impact on flooding – NO
6. Impacts on Air – NO
7. Impact on Plants and Animals – NO
8. Impact on Agricultural Resources – NO
9. Impact on Aesthetic Resources – YES
10. Impact on Historic and Archeological Resources – YES
11. Impact on Open Space and Recreation – NO
12. Impact on Critical Environmental Areas – NO
13. Impact on Transportation – NO
14. Impact on Energy – YES
15. Impact on Noise, Odor and Light – YES
16. Impact on Human Health – NO
17. Consistency with Community Plans – NO
18. Consistency with Community Character – YES

Corporation Counsel Wilson stated that because there were some areas marked “YES” on Part II of the EAF, the City must move onto Part III. She stated that Part III was marked as an Unlisted action and read the following:

“Crown Castle's proposal to add approximately 65 additional dual antennae system ("DAS"), including the 2 and/or 3 ion box, accessory meters, and pole top/communication zone antennae, within the City's publicly owned right-of-way may have significant adverse environmental impacts as they relate to aesthetic resources, historic resources, noise and the existing community character. The visual and aesthetic impact of placing ion boxes that could be 7 cubic feet in size approximately 8 feet off the ground are highly visible to the average person. In addition, the significant increase in the number of proposed DAS throughout the entire City, along residential streets directly in front of residential structures, near parks and schools, and the City's locally designated historic districts and near landmarked structures may alter the City of Rye's existing residential landscape. Currently, there are no other structures at approximately 8 feet above street level and located every 500 feet in the City's right-of-way. In addition, all of the ion boxes (single, dual or triple ions) may not meet the City's existing noise ordinance when measured at the appropriate distance.”

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

RESOLUTION
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RYE MAKING A
POSITIVE DETERMINATION OF SIGNIFICANCE UNDER THE STATE

**ENVIRONMENTAL QUALITY REVIEW ACT RELATING TO CROWN CASTLE'S
REQUEST TO MODIFY THE EXISTING RIGHT OF WAY USE AGREEMENT**

Project: Modification of the Existing Right of Way Use Agreement Between the City of Rye and Crown Castle.

Lead Agency: City Council of the City of Rye, 1051 Boston Post Road, Rye, New York 10580

Date: April 19, 2017

Type Of Action: Unlisted

Description Of Proposal: Deployment of additional 64 dual antennae system nodes, with the accessory equipment boxes, meters and anetennae throughout the City of Rye in its public right of way.

Reasons Supporting This Determination:

Based upon a review of the applicant's submitted Full Environmental Assessment Form and all other application materials that were prepared for this action, the Lead Agency has determined that the proposed action may have the following significant adverse impacts:

1. The potential for significant aesthetic/design/visual resource impacts and neighborhood character impacts.
2. The potential for significant impacts related to noise associated with the two and three ion boxes.
3. The potential for significant impacts to the community character and locally designated historic districts and landmarks.

Scoping Information:

Scoping of the issues to be contained in the EIS will be conducted by the Lead Agency. Once a draft scoping document is prepared, a public scoping session with be noticed and held.

Contact Person:

Kristen Wilson, Corporation Counsel
City of Rye
1051 Boston Post Road
Rye, New York 10580
kwilson@ryeny.gov

Prior to the vote, Mayor Sack asked what the impact would be if the Council were to taken a vote on this proposed positive declaration. Corporation Counsel Wilson responded that it sets the stage for continuing on with the environmental review process. She stated that

depending on how the parties would want to proceed, either party would take on the task of putting together the environmental impact statement.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, Mecca, and Tagger-
Epstein
NAYS: None
ABSENT: Councilman McCartney

9. Consideration of a resolution in connection with the request submitted by Crown Castle to amend the Right of Way Use Agreement and the installation of additional locations to their existing wireless telecommunications located in the City of Rye.

Mayor Sack stated that the Council had a recommendation by staff and a draft resolution. The Council has taken action on the SEQRA issues, but the resolution language concerning the application should be certain prior to being adopted by the Council. A vote will be taken at that time. Mayor Sack made a motion, seconded by Councilwoman Hurd and unanimously carried, to move the vote to April 22, 2017.

16. Miscellaneous communications and reports.

Councilwoman Killian announced that at the Rye Town Park meeting on April 18, 2017 the NYU Capstone team presented their recommendations for the development of Rye Town Park.

17. New Business.

Mayor Sack stated that with regard to the City Council's August 2017 meetings being potentially problematic, he would recommend canceling those currently scheduled. Mayor Sack made a motion, seconded by Councilman Mecca and unanimously carried, to cancel the City Council's 2017 August meetings.

18. Adjournment.

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilwoman Bucci and unanimously carried, to adjourn the regular meeting of the City Council at 10:20 P.M.

Respectfully submitted,

Carolyn E. D'Andrea
City Clerk

DRAFT UNAPPROVED MINUTES of the
Special Meeting of the City Council of the City of Rye
held in City Hall on April 21, 2017, at 5:00 P.M.

PRESENT:

JOSEPH A. SACK Mayor
KIRSTIN BUCCI
JULIE KILLIAN
TERRENCE McCARTNEY
RICHARD MECCA
DANIELLE TAGGER-EPSTEIN
Councilmembers

ABSENT:

EMILY HURD, Councilmember

CITY OF RYE
NOTICE OF SPECIAL MEETING

The City Council has called a Special Meeting for Friday, April 21, 2017 at 5:00 p.m. in the Mayor's Conference Room.

AGENDA

1. The City Council will convene into an attorney/client meeting to discuss confidential matters.

Mayor Sack made a motion, seconded by Councilman McCartney, to adjourn into Executive Session to discuss confidential matters at 5:00 P.M.

The Council adjourned from Executive Session at 5:15 P.M.

Mayor Sack called the roll; a quorum was present.

Mayor Sack explained that there was a brief Executive Session, discussing the litigation involving Rye Playland. The City of Rye had received an unfavorable ruling from the Court. At this time, the City would need to preserve its legal rights at a minimum by filing a Notice of Appeal. However, the Council is hopeful that resolution can be reached prior to perfecting the appeal with the Appellate Division.

Mayor Sack made a motion, seconded by Councilman Mecca, to support Corporation Counsel filing a Notice of Appeal in the case *City of Rye v. Westchester County Board of Legislators et al.*

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca, Tagger-
Epstein
NAYS: None

ABSTAIN: Councilwoman Killian
ABSENT: Councilwoman Hurd

There being no further business to discuss, Councilman McCartney made a motion, seconded by Councilman Mecca, to adjourn the Special Meeting of the City Council at 5:19 P.M.

Respectfully submitted,

Carolyn E. D'Andrea
City Clerk

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of Rye
held in City Hall on April 22, 2017, at 9:00 A.M.

PRESENT:

JOSEPH A. SACK Mayor
KIRSTIN BUCCI
EMILY HURD
JULIE KILLIAN
RICHARD MECCA
DANIELLE TAGGER-EPSTEIN
Councilmembers

ABSENT:

TERRENCE McCARTNEY
Councilmember

This meeting of the City Council was preceded by a joint meeting of the City Council and the Rye City School Board.

Mayor Sack made a motion, seconded by Councilman Mecca at 10:15 A.M., to adjourn into executive session to discuss litigation matters.

The Council adjourned from executive session and rejoined the public meeting of the City Council at 10:30 A.M.

Corporation Counsel Wilson read the proposed resolution.

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

**RESOLUTION
DENYING
PROPOSED PLAN FOR PLACEMENT OF WIRELESS
FACILITIES**

WHEREAS, the City of Rye entered into a Right of Way Use Agreement with NextG Networks of New York, whose successor, Crown Castle East NG, Inc. (Crown Castle), has asked the City to approve a plan for placement of more than 60 DAS nodes within the City of Rye; and

WHEREAS, Crown Castle has applied to place wireless facilities in the rights of way pursuant to the RUA, and not Chapter 196 of the City Code; and

WHEREAS, there is a substantial question as to the continuing validity of the RUA; and

WHEREAS, the City has nonetheless considered the request under the RUA as if it were fully enforceable according to its terms; and

WHEREAS, the RUA only extends to public ways of the City of Rye as defined in the RUA, and does not authorize placement of facilities by Crown Castle in any other location; and

WHEREAS, the RUA by its terms permits the reasonable review of any request and permits a more detailed review of requests that do not satisfy certain standards, and

WHEREAS, the City has determined that the project is subject to a positive declaration under SEQRA; and

WHEREAS, the basis for those determinations are incorporated into this Resolution by reference; and

WHEREAS, Crown Castle appears to contend that the proposed project is exempt under SEQRA, or that a negative declaration would be appropriate, and further appears to contend that the City is obligated by federal law to determine whether to grant or deny the request under the RUA; and

WHEREAS, in light of these contentions, the City believes it advisable to make a clear statement as to the action it would take based on Crown Castle's proposal as if the proposed project were exempt from SEQRA:

NOW THEREFORE BE IT RESOLVED BY THE CITY OF RYE:

Section 1. This Resolution is made without prejudice to the right of the City to approve the project after completion of a SEQRA analysis, and reflects the view of the City as to the projects as proposed in Plans A, B and C, as summarized in Crown Castle's letter to the City dated February 24, 2017 (filed 2/27/2017), which the City understands are the only requests Crown Castle now asks that the City act upon.

Under Proposal A, there would be 73 installations, including two new poles; installation of facilities that do not comport with DoITT standards (DoITT standards are described below); and no placement of facilities on City Facilities.

Under Proposal B, there would be 64 DAS nodes, no new poles, installation of facilities that the company says would comply with DoITT standards, and no placement of facilities on City Facilities.

Under Plan C, there would be 64 DAS nodes, no new poles, installation of facilities that the company says would comply with DoITT standards on third party poles, and placement of facilities that do not comply with DoITT standards on City Facilities.

Under *all* of the proposals, Crown Castle would allow Verizon Wireless to place equipment in the rights of way without Verizon Wireless obtaining the consent of the City.

Under *all* of the proposals, some of the facilities would be placed on County rights of way or on private property, although under Plan C, the company contends that it has moved DAS nodes to the extent practicable to avoid using properties other than City Public Ways.

Section 2. Assuming that the City is required by federal law to make a determination as of this date based on the plans before it, after considering the record before it and arguments raised, including the expert reports received by the City, and the staff recommendation, the City concludes that the requests for placement under Plans A, B and C should be denied, based upon this Resolution and for reasons set forth more fully in the Attachment to this Resolution, which is incorporated by reference.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, Mecca, Tagger-Epstein
NAYS: None
ABSENT: Councilman McCartney

ATTACHMENT A

Section 1.

There are three proposals for placement of DAS nodes in the City, referred to as Plans A, B and C, and described more fully in the “Resolution Denying Proposed Plan For Placement Of Wireless Facilities.” Crown Castle appears to seek approval for at least one of the Plans in its entirety; it has not identified any nodes that are particularly critical, and we have no basis for assuming that if some nodes were denied and others approved, the project could move forward.

Section 2. Chapter 196 of the City Code.

By its terms, Chapter 196 would apply to the facilities installed by Crown Castle. Crown Castle never applied for any facility under Chapter 196. While it submitted some of the information required by Chapter 196 in connection with its request that the City approve filings under the RUA, it among other things did not submit information sufficient to address two issues that it is specifically required to address under Chapter 196, namely, whether there are higher priority locations (or less intrusive locations) that would satisfy service requirements; and whether there is a “need for the wireless telecommunications facility to provide service.” Based on the information in the record, including the information presented by Ronald Graiff, the information presented by Verizon and the information presented by Crown Castle and by the public criticizing the Crown Castle analysis, we conclude that this deficiency alone would mean the placement could not be authorized under Chapter 196 for Plan A, Plan B or Plan C.

Section 3. The RUA.

While there is substantial question as to the validity of the RUA to the extent it purports to exempt Crown Castle from otherwise applicable law for 25 years, the remainder of this discussion assumes that the RUA is valid, and considers whether, as requested by Crown Castle, Plan A, B or C should be approved pursuant to the RUA. The following Sections of the RUA are particularly relevant to the discussion of the RUA that follows:

a. “1.12: Public Way. "Public Way" means the space in, upon, above, along, across, and over the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks, bicycle lanes and places, including all public utility easements and public service easements as the same now or may hereafter exist, that are under the jurisdiction of the City. This term shall not include county, state, or federal rights of way or any property owned by any person or entity other than the City, except as provided by applicable Laws or pursuant to an agreement between the City and any such person or entity.”

b. “3. Scope of Use, Agreement - Any and all rights expressly granted to [Crown Castle] under this Use Agreement...shall be subject to the prior and continuing right of the City under applicable Laws to use any and all parts of the Public Way exclusively or concurrently with any other person or entity and shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record which may affect the Public Way. Nothing in this Use Agreement shall be deemed to grant, convey, create, or vest

in [Crown Castle] a real property interest in land, including any fee, leasehold interest, or easement. Any work performed pursuant to the rights granted under this Use Agreement shall be subject to the reasonable prior review and approval of the City except that it is agreed that no zoning or planning board permit, variance, conditional use permit or site plan permit, or the equivalent under the City's ordinances, codes or laws, shall be required for the installation of [Crown Castle's] equipment installed in the Public Way and/or on Municipal Facilities, unless such a process has been required for the placement of all communications facilities and equipment In the Public Way by all other telecommunications providers..."

c. "3.1 Attachment to Municipal Facilities. The City hereby authorizes and permits [Crown Castle] to ...install, operate, maintain, control, remove, reattach, reinstall, relocate, and replace Equipment in or on Municipal Facilities...A denial of an application for the attachment of Equipment to Municipal Facilities shall not be based upon the size, quantity, shape, color, weight, configuration, or other physical properties of [Crown Castle's] Equipment if the Equipment proposed for such application substantially conforms to one of the approved configurations and the Equipment specifications set forth in Exhibit A."

d. "3.2 Attachment to Third-Party Property. Subject to obtaining the permission of the owner(s) of the affected property, the City hereby authorizes and permits [Crown Castle] to enter upon the Public Way and...to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace such number of Equipment in or on poles or other structures owned by public utility companies or other property owners located within the Public Way as may be permitted by the public utility company or property owner, as the case may be...A denial of an application for the attachment of Equipment to third-party-owned poles or structures in the Public Way shall not be based upon the size, quantity, shape, color, weight, configuration, or other physical properties of [Crown Castle's] Equipment if the Equipment proposed for such application substantially conforms to one of the approved configurations and the Equipment specifications set forth in Exhibit A..."

e. "3.3 Preference for Municipal Facilities. In any situation where [Crown Castle] has a choice of attaching its Equipment to either Municipal Facilities or third-party-owned property in the Public Way, [Crown Castle] agrees to attach to the Municipal Facilities..."

Section 4. RUA Analysis.

(a) Several of the facilities proposed to be installed are not located in public ways of the City; some are on private property (particularly, Loudon Woods), and some are on County rights of way. Those uses are not governed by the RUA, but are governed by *inter alia*, Chapter 196. Crown Castle never filed an application for those facilities. Those facilities cannot be approved under the RUA, and because no application was filed as required by Chapter 196, and the information presented would not justify a special use permit, the request for those facilities must be denied under Plans A, B and C. Crown Castle contends that it has separately received an authorization to place facilities in the rights of way by virtue of a permit authorizing construction in the rights of way, issued by the County and counter-signed by the City Engineer. The argument is not relevant to the question of whether the nodes can be approved under the RUA. Moreover, in our view, a

permit for construction is not a substitute for a land use approval where required; the construction permit and special use permit processes are distinct.

(b) The installations are proposed to serve Verizon Wireless. Verizon Wireless will own facilities that will be managed by Crown Castle and will be connected to the node equipment owned by Crown Castle. Verizon Wireless does not have consent from the City to place facilities in the rights of way. Crown Castle proposes to overcome this deficiency by effectively granting franchise rights it holds to Verizon Wireless. The City has notified Crown that this is a violation of the RUA, and Crown Castle is now in a cure period under the RUA. There is no basis for authorizing installation of the facilities under Plan A, Plan B or Plan C until and unless the deficiency is cured, as the rationale for construction of the facilities is based on the particular requirements of Verizon Wireless.

(c) (1) The RUA Exhibit A, referred to in the quoted RUA language above, incorporates the NYC DoITT standards for wireless placement. In 2011, those standards, among other things, provided that a wireless provider could install:

“An equipment housing with a volume no greater than 2.8 cubic feet (i.e., 4,840 cubic inches). Equipment housings that are of a volume no greater than 2.8 cubic feet, but that are not “sub-sized housings” under subsection (b) below are referred to in this Agreement as “standard housings”. Standard housings shall have a maximum width (i.e., a maximum horizontal dimension, perpendicular to the pole and parallel to the ground) of eighteen inches unless a substantial operational need for a larger width is demonstrated to the satisfaction of DoITT and the City’s Department of City Planning (“DCP”). Any determination of satisfaction by DoITT and DCP pursuant to the preceding sentence may be in the form of an approval of a specific Street Pole use proposal or may be made in more generic form covering all or a category of Street Poles or potential installations, as DoITT and DCP may determine.

An equipment housing with maximum dimensions of 13 inches by 9 inches by 4 inches (that is, no more than thirteen inches in its longest dimension, nine inches in its second longest dimension and four inches in its shortest dimension).”

(2) Under Plan A, and under Plan C with respect to the municipal facilities, the installations do not comply with DoITT specifications. Under the February 24, 2017 submission proposes installation of equipment boxes at 42 x 24 x 12, (approximately 7 cubic feet) with a RF warning sign (indicating that the installation is no longer RF safe) which, according to the drawings submitted, are at a level possibly as low as 5’7” and no higher than 8’6. In considering the request under Plan A, and under Plan C with respect to Municipal Facilities, the City first must consider whether the larger boxes “substantially conform” to the DoITT standards. We conclude that they do not. As the photographs in the record and the model installations suggest, the large facilities are significantly larger and more visible than the “standard” DoITT equipment (2.8 cubic feet v. 7 cubic feet) or the smaller DoITT equipment. The size differential is particularly significant for placements in rights of way bounded by single family residential units. Having determined the difference is substantial, the City may consider size, quantity, shape, color, weight, configuration,

or other physical properties of the proposed installations. While the City desires for facilities to be placed on Municipal Facilities per the RUA, after viewing the drawings and the differences between the facilities that meet the DoITT standards and those that do not; the proposals that do not comply with the RUA appear significantly different for reasons suggested above, and especially given the number proposed to be installed, and because there may be alternatives that could obviate the need for the facilities. In addition, the record suggests that there may be noise issues that are greater with the larger facilities than with the DoITT approved facilities.

(d) Even setting aside the issues identified in Sections 4(a)-(b), Plan B fails because it does not include any consideration of Municipal Facilities as required by the RUA.

(e) That leaves the question as to whether the City should approve the facilities under Plan C that are consistent with the DoITT standards (essentially, that is, the Plan B facilities minus the facilities where a municipal structure provides a substitute). For reasons already suggested, we think the answer is “No.” But in addition, we believe denial of Plans A, B and C is justified for the following reasons:

(1) Installation is subject to the City’s “reasonable prior review and approval” under Section 3, although there are several factors that the City may not consider in reviewing a request to install facilities, quoted in Sections 3.1 and 3.2. However, we note that Section 3 specifically contemplates that the agreement shall not be interpreted to allow Crown Castle to effectively monopolize available space in the rights of way – that is, it is intended to ensure that the rights of way remain available to all. We think as part of the City’s review it is therefore important to ask whether the facilities – regardless of how many may be requested or their physical configuration – are needed at the locations proposed to provide service. In this case, as discussed above and as the report of Mr. Graiff suggests, the company has not provided the information that would permit the City to determine how many, if any, of the facilities are needed. We note that Verizon Wireless contends that there is a significant gap in service, or significant capacity issues that justify placement of the DAS nodes. However, the data is at best equivocal in this regard. In addition to data problems identified by Mr. Graiff, the drive data prepared by Crown Castle appears to show that adequate signals are available in areas where Verizon Wireless claims capacity problems – but Verizon Wireless only claims capacity problems in a single frequency (700 MHz) and does not claim it has capacity problems at 2.1 GHz where the drive data appears to show signal is available at what Mr. Graiff explains are typical network standards for Verizon Wireless. The capacity data Verizon Wireless did provide appears to show an immediate capacity problem in one sector served by one antenna within the City (the geographic areas served by specific antenna sectors for which capacity problems are claimed are not identified). Several other locations have no capacity problems, or are only anticipated to have capacity problems years from now. Moreover, Verizon Wireless claims it has not activated spectrum that is available to it (1.9 GHz).

In what we believe is also an effort to show a need for the facilities proposed, Crown Castle submitted a table showing projected daily traffic data for select roads in Rye, apparently derived from New York State data available at <http://gis3.dot.ny.gov/html5viewer/?viewer=tdv>. The information does not show that the DAS nodes are located on the road segments that are referenced by Crown Castle, or show that the traffic levels are significant. More importantly only 18 of the 64 nodes are on the roads that Crown Castle seems to suggest are highly trafficked, and the data

Crown Castle and Verizon Wireless submitted does not show that the DAS nodes are positioned to serve those roads. Many of the nodes appear designed to serve very small areas (see, for example, Plan A, Node 2-062 and Node 2-011).

(2) As suggested by the City's SEQRA determination, there may be noise issues associated with the Plan C facilities that have not been addressed.

(3) There appears to be a substantial contractual dispute between Crown and the City. The City views the RUA, if valid, as contractually limiting the company to installing facilities that substantially conform to DoITT standards, absent an approval process that would permit the City to consider various physical factors prior to modification. Crown Castle, as we understand it (based in part on information submitted for hearing on April 19), contends that it may expand the facilities any way it desires after the initial installation, or alternatively that any right of review by the City has been preempted by 47 U.S.C. Section 1455. Legally, the latter conclusion is suspect. The FCC's Order interpreting that provision noted that it did not apply where "local governments enter into lease and license agreements to allow parties to place antennas and other wireless service facilities on local-government property... We find that this conclusion is consistent with judicial decisions holding that Sections 253 and 332(c)(7) of the Communications Act do not preempt "non regulatory decisions of a state or locality acting in its proprietary capacity." If Crown's view of the preemptive scope of federal law were correct, it is hard to imagine that the contract itself could survive, since its basic purpose – limiting what may be installed – could no longer be served. Given this dispute, we think it unreasonable to approve the proposed installations under Plans A, B or C.

Section 5. Conclusion.

Based on the information before us, and to the extent we must make the determination now, we conclude based on the record and considering the arguments made, that Plans A, B and C cannot be approved as currently formulated under either the City Code or under the RUA. Each of the reasons for denial justifies denial whether considered individually, or collectively.



CITY COUNCIL AGENDA

NO. 5

DEPT.: City Council

DATE: May 3, 2017

CONTACT: Councilwoman Julie Killian

AGENDA ITEM: Announcement of the winner of the Rye Sustainability Leadership Award.

FOR THE MEETING OF:

May 3, 2017

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the first Annual Rye Sustainability Committee Leadership Award be presented.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

In recognition of Earth Week and as part of its mission to implement the Rye Sustainability Plan, The Rye Sustainability Committee has created a Rye Sustainability Committee Leadership Award. This award honors individuals, organizations or the members of the business community that have made significant environmental achievements and demonstrated excellence in leadership for the health of our community and planet.

See attached information on the four nominees.

Scott Nelson and Rye Country Day School for consistent and generous support of the RSC/RCDS Green Screen film series. At Nelson's direction, RCDS has partnered, promoted and underwritten the entire cost of the Green Screen program so that the general public can attend, learn about important sustainability topics, and enjoy delicious refreshments, all free of charge. In addition, the RCDS faculty has supported the Green Screen by offering course credit to students who attend. Nelson and RCDS' support of the Green Screen allows the message of sustainability to reach so many more members of the public who would otherwise not be able to learn about it.

Christine Siller and Taro Ietaka of Rye Nature Center for their deep commitment to environmental and conservation education and their continued and generous support of RSC educational and conservation-related programs. Taro Ietaka has attended and participated in numerous events related to RSC's healthy yard program, while Christine has supported RSC initiatives, including underwriting the production of the healthy yard signs.

Jim Boylan, Midland principal for his leadership and perseverance spearheading the Midland cafeteria composting program and inspiring other schools to follow. This waste free lunch program has reduced the Midland's contribution to landfills by an estimated 25,000 lbs since the program started, and about 150 lbs per day is now being re-purposed or primarily composted. The program has made a substantial impact on waste reduction with the added benefit of educating students about the impact of their waste.

Mark Dellicolli, Rye resident and assistant to the Chief Information Officer, Westchester County Department of Information Technology, for his efforts to drastically decrease the energy costs of the County Data Center, which had traditionally been a huge energy drain. Dellicolli's plan to rearrange the room where all the servers were kept decreased energy use by 10%. This was especially impressive given that the data center is 15 years old, data needs have increased drastically and most importantly it was done in lieu of expensive capital projects previously proposed. The County now has room to possibly offer local municipalities space for off premises storage for emergency purposes.



CITY COUNCIL AGENDA

NO. 6

DEPT.: City Council

DATE: May 3, 2017

CONTACT: Mayor Joseph A. Sack

AGENDA ITEM: Issues Update/Old Business

FOR THE MEETING OF:

May 3, 2017

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That an update be provided on outstanding issues or Old Business.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:



CITY COUNCIL AGENDA

NO. 7

DEPT.: City Council

DATE: May 3, 2017

CONTACT: Councilmember Danielle Tagger-Epstein

AGENDA ITEM: Consideration of a Resolution regarding the City of Rye's Policy of Immigration Enforcement and Public Safety.

FOR THE MEETING OF:

May 3, 2017

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council consider a Resolution establishing guidelines and policies regarding immigration and citizenship status.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

See attached Resolution.

RESOLUTION

The City of Rye is committed to upholding and protecting the civil and human rights of all individuals regardless of their race, creed, religion, ethnicity, gender, sexual orientation, gender identity, national origin or immigration status

We, the City of Rye, denounce acts of racism, bigotry, xenophobia, religious discrimination, antisemitism and acts of discrimination based on a victim's gender, sexual orientation or gender identity.

Our Department of Public Safety's primary mission is to keep the community of Rye, its residents, workers, and visitors safe. Its practices are designed to promote mutual respect and open dialogue between all members of the community, and law enforcement.

Immigration Enforcement beyond which required by federal or state law is not the role of our City employees and public officials.

Consistent with the City Charter and the authority delegated to the Commissioner of Public Safety, the City hereby directs the Commissioner to develop a policy that is consistent with the current practices of the department and in accordance with established policies in Westchester and throughout New York State within 45 days of the effective date of this Resolution.

Once received, the City Council will consider such policy at its next City Council meeting.



CITY COUNCIL AGENDA

NO. 9

DEPT.: Police

DATE: May 3, 2017

CONTACT: Michael C. Corcoran, Jr., Commissioner of Public Safety

AGENDA ITEM: Consideration of the proposed addition to the Rules and Regulations of the City of Rye Police Department General Order #121.4 regarding a Social Media Policy.

FOR THE MEETING OF:

May 3, 2017

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: Approval of the addition of General Order #121.4, "Social Media", which establishes the Police Department's position on the utility and management of social media and provides guidance on its management, administration, and oversight.

IMPACT: Environmental Fiscal Neighborhood Other:

Enhancement of the operational effectiveness of the Department.

BACKGROUND:

A copy of the new proposed order has been provided to the Rye Police Association for review pursuant to the provisions of the collective bargaining agreement.