

CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, January 24, 2018, at 7:30 p.m. in Council Chambers at City Hall. *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 litigation.*

AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. Draft unapproved minutes of the regular meeting of the City Council held January 10, 2018.
4. Residents may be heard on matters for Council consideration that do not appear on the agenda.
5. 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.
The City Council intends to close the public hearing and table the proposed laws at this time and do not intend to take any public comment.
6. Consideration to set a Public Hearing for February 7, 2018 to amend local law Chapter 176, "Energy Conservation", of the Rye City Code by amending provisions related to the Sustainable Energy Loan Program in the City of Rye in accordance with Article 5-L of the General Municipal Law.
7. Appointments to Boards and Commissions, by the Mayor with Council approval.
 - A) One appointment to the Board of Ethics for a three-year term.
 - B) Three appointments to the Conservation Commission/Advisory Council for a three-year term.
 - C) Two appointment to the Traffic & Pedestrian Safety Committee for a three-year term.
 - D) Three appointments to the Planning Commission for a three-year term.
8. Designation of the Chair of the Planning Commission by the Mayor.
9. 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 2017.

10. Consideration of a request by the American Legion Post 128 and the Ladies Auxiliary of Post 128 to approve a parade to commemorate Memorial Day to be held on Monday, May 28, 2018 from 9:45 a.m. to 10:15 a.m.
11. Consideration of a request by the American Legion Post 128 and the Ladies Auxiliary of Post 128 to have a food truck at the Memorial Day event to be held on Monday, May 28, 2018 from 9:45 a.m. to 10:15 a.m.
12. Miscellaneous communications and reports.
13. Old Business.
14. New Business.
15. Adjournment.

The next regular meeting of the City Council will be held on Wednesday, February 7, 2018.

** 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 will hold office hours at Rye City Hall, 1051 Boston Post Road, on Monday and Wednesday mornings from 9:00 to 10:30 a.m. and on Saturday morning from 9:30 to 11:00 a.m. each week. On Monday Councilwomen Julie Souza and Danielle Tagger-Epstein will be hosting. On Wednesday's Joshua Mayor Cohn, Deputy Mayor Emily Hurd and Councilwoman Sara Goddard will be hosting. On Saturday's Councilmen Richard Mecca and Benjamin Stacks will be hosting.



CITY COUNCIL AGENDA

NO. 3

DEPT.: City Clerk

DATE: January 24, 2018

CONTACT: Carolyn D'Andrea, City Clerk

AGENDA ITEM: Draft unapproved minutes of the regular meeting of the City Council held January 10, 2018.

FOR THE MEETING OF:

January 24, 2018

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council approve the draft minutes.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Approve the minutes of the regular meeting of the City Council held January 10, 2018, as attached.

DRAFT UNAPPROVED MINUTES
of the Regular Meeting of the City Council of
the City of Rye held in City Hall on January
10, 2018, at 7:30 P.M.

PRESENT:

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

ABSENT:

None

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

At 7:30 P.M., Councilwoman Tagger-Epstein made a motion, seconded by Councilwoman Hurd, to adjourn the executive session and commence the open meeting of the City Council.

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.

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

This item was taken out of order. Kent Iarocci, Rye resident, thanked the new Mayor and City Councilmembers. He spoke about central business district parking and the need for tiered parking within the downtown areas of Rye. He also discussed development in general within the downtown area and was hopeful for the future. Mr. Iarocci also discussed traffic development ideas in the central business district.

4. Draft unapproved minutes of the Regular Meeting of the City Council held December 20, 2017.

Councilwoman Tagger Epstein made a motion, seconded by Councilwoman Hurd, to adopt the unapproved minutes of the Regular Meeting of the City Council held December 20, 2017. Councilmembers Tagger-Epstein, Hurd and Mecca, who were present for that meeting, all voted in the affirmative to adopt the minutes.

6. Designation of the days and time of regular meetings of the City Council.

Mayor Cohn announced that the 2018 City Council meeting would be held on the following dates:

- January 10, 24
- February 7, 28
- March 14, 28
- April 11, 25
- May 9, 23
- June 6
- July 11
- August 8
- September 12
- October 3, 17
- November 7, 28
- December 5, 19

The budget workshops will be held on November 13 and 26, 2018.

7. Appointment of the 2018 Deputy Mayor by the Mayor.

Mayor Cohn appointed Councilwoman Hurd as the 2018 Deputy Mayor.

8. Designation of the City Council's Audit Committee by the Mayor.

Mayor Cohn, with Council approval adopted the following resolution:

RESOLVED, that two Council members be appointed to the City Council's Audit Committee for a one-year term commencing January 1, 2018.

9. Designation of the City Council Liaisons by the Mayor.

Mayor Cohn designated the following Councilmembers as liaisons:

Board of appeals – Mayor Cohn
Board of Architectural Review – Councilwoman Goddard
Boat Basin – Councilwoman Hurd
Human Rights Commission – Councilwoman Tagger-Epstein
Conservation Commission Advisory Council - Councilwoman Goddard

Emergency Medical Services – Councilwoman Tagger-Epstein
Finance Committee – Councilman Stacks
Flood Advisory Committee – Councilwoman Hurd
Landmarks Advisory Committee – Councilman Mecca
Planning Commission - Councilman Mecca
Recreation Committee – Councilwoman Souza
Cable and Communications Committee – Councilwoman Souza
Merchants – Councilmembers Hurd and Souza
Rye City School District – Councilwoman Souza and Mayor Cohn
Rye Free Reading Room – Councilman Mecca
Rye Golf Club – Councilman Stacks
Rye Playland Advisory Committee – Councilman Stacks
Rye Town Park Commission – Mayor Cohn, Councilwoman Hurd
Sustainability Committee – Councilwoman Goddard
Traffic and Pedestrian Safety – Councilwoman Tagger-Epstein
Master Plan – Councilmembers Souza, Goddard, Mayor Cohn

3. The Annual Message by the Mayor.

Mayor Cohn made the following statement:

“Those that are in the room, I am honored by your presence. Those watching at home, given likely distractions, I am equally honored by your attention. Some may have remarked on the title of my talk. This is my first annual message. I have reverted to a title used years ago. This title better suits my purpose. This is not a “state of” speech. It is simply my opportunity to tell you what I have observed, what I and at least some of my colleagues are thinking about and what we hope to do. And anything we hope to do can only get done with your help. We know that. I and my newly-elected colleagues are with you tonight only because many of you, many especially for an “off-year” election, helped by taking the time and trouble to go vote. If you did only that, Democrats, Independents, Republicans, WEPers, WFPers, Conservatives and the mighty unaffiliated, you helped enormously – no matter who you voted for.

We are here as a result of a good election, hard fought and a sturdy starting point for us. Thank you. Please don’t think, though, that having voted gets you off the hook. My early days as Mayor have already taught me how very important are the City’s own boards, commissions and committees. Many of you have invested enormous time and effort in these. Not to mention the myriad other community, social, religious, charitable, you name-it groups that weave all our efforts into the fabric that is our City. We need your continued participation in the work of the government and the work of the community. We on the Council also need your thoughts, your advice, and your continuing support. I have been able to spend some time in City Hall in recent weeks. I already knew, but have learned better, how enormously talented and hard-working is our City staff. I thank them for their work and tutelage in these early days.

Now, to business.... One, Finances. A first and very deep concern is the effect of recent federal tax law changes on the City’s financial position. Some have said that there

will be a consequent fall-off in home sales, home values and in new construction, with knock-on deterioration of the City's fee income and tax base. Others believe that Rye's reputation as an excellent place to live will insulate it from or mitigate these consequences. One thing is certain, though. Local taxes have immediately become more unattractive than they already were. I think the dominant view on your new City Council is that we must act with great financial caution. We have inherited a budget that leaves us little room. The prior Council was prepared to rest on optimistic assumptions, for example regarding increased building permit revenues and declining legal costs. Our available fund balance is only about \$400,000 above the amount that is our self-imposed bright-line to protect our triple-A rating. We will watch our financial condition with care over the year. We may make changes in our budget, to the extent the law allows. We will need to think creatively and engage our community's great intellectual capital. One means of doing this, in process, is reenergizing our Finance Committee to help us navigate the new municipal financial environment. As many know, an amount in excess of the total amount of the City's property tax revenues is absorbed by employee salaries and benefits, and retiree health care cost.

Your new City Council inherits all four of our union contracts "open" – that is, to be negotiated. Our city workers contribute immeasurably to the quality of life in Rye. We honor and respect them. At the same time, we must work within the budget we have inherited and within the uncertain financial environment we face. We must and will be prudent on behalf of the City present and the City future. Before we leave finance behind, it is worth noting that of your aggregate local tax spend, the City receives only about 15%. The lion's share goes to the school district and the County. And so our other sources of funds, be they additional revenue sources or grants and aid, are indeed important to us.

Second, the Fire Department Rye has a combined volunteer and professional fire department. Continued effort is needed to make sure that this combination is successful and is rewarding to both volunteers and professionals. We will do our part to support this effort.

Third, infrastructure. We must deal with longstanding and, in some instances, neglected issues. Our roads overall need improvement. The effects of our recent weather have underscored this need – deeply – pothole deep. Although we have had access to New York Rising flood grant money, for too long we have been slow to pursue deployment of those funds. Separately, our wastewater and storm water infrastructure needs are only now being surveyed. We can anticipate substantial wastewater and storm water infrastructure renewal and improvement costs, which we hope may be offset in some part by grants and aid. Pedestrian safety and ease of travel should be improved by sidewalk construction or other means. Again, we hope grants and aid, and yes, neighborhood contributions, may in part fund this work. The central business district parking issue remains after so very many years. We will again confront the issue, with fresh eyes and open minds. I have just described several leading areas of potential capital investment. There are of course many others that are important and that can be found in our many-paged Capital Improvement Plan, from sports field improvements to replacing City Hall's dinosaurian HVAC system. (In reality, I understand our HVAC unit to be

akin to the old cars plying the streets of Havana – miracles of mismatched parts and mechanical inspiration.) We will be reviewing and prioritizing capital projects with City staff, and with a sharp eye on the City's finances. Yes, bonding will be considered. Disbrow Park improvements were a substantial subject of public discourse in 2017.

We respect the Recreation Commission and will hear its selection of one of the consultant's plans, though we think the Commission has been inappropriately burdened in this instance. Our consideration will be framed by our regard for the City's financial situation and its many other needs, as well as by environmental concerns and the thoughts of park neighbors. Our hearing the Recreation Commission's thoughts will certainly enrich our outlook on what might be done at Disbrow, but it will not dictate any particular outcome. The Thruway property, of course, comes to mind, as well. Steve Otis's bill was signed and we therefore have the welcome opportunity to negotiate a shared use agreement with Rye Country Day School. I am hopeful that we can achieve a satisfactory outcome for both our City and the school.

Fourth, "Other Important Matters," - There is an impressive quantity of matters, some involving neighboring jurisdictions that will require our proactive involvement. Here are highlights in no particular order: -The Starwood-designed project on the United Hospital site is now for sale. This huge project remains a concern for Rye Park and for travel on the Post Road. Agreements were put in place by the prior Council that may provide some help. This Council, however, will be engaged. -We have litigation pending with the County over its approval of the Playland - Standard amusements deal. We intend to renew dialog with the County, and with Standard, to the extent appropriate. -Our City boat basin is an important community asset in enterprise fund form. It is struggling with the costly burden of dredging. We will stay involved in its progress. -Crown Castle has indicated that it intends to appeal its loss in federal district court and that it may bring an additional state court action. We want carriers to provide good cell service to Rye. At the same time, we must continue to fight to use and protect our City's approval rights. It is striking that Verizon, Crown's sponsor, has failed to see an opportunity to do something customer-pleasing in Rye. -The State's Last Mile project, a rebuilding of I-95, and certain overpasses and ramps, from Rye to Connecticut, will provide years of disruption. We will work with the State to ameliorate this disruption, to the extent possible. -The Master Plan effort underway is important and will be continued, though we will review project scope and goals. -Community concern over the nature of residential development remains high. Although potentially within the ambit of the Master Plan, we will consider how best to expedite a community conversation regarding this sensitive matter. -The City and the School District can and should do great things together. We intend to reach out to the School District to see how we can work more closely together.

Fifth- Council Communications, Transparency and Efficiency. We wish to have this City Council work better for you. I recently heard a resident say that the City had, in a given instance, not treated him well as a customer. But you/we are not just customers. We are owners. And ownership, of course, brings its own bundle of rights and responsibilities. In this room and in all our dealings with you, the people of Rye, we will endeavor to treat you as owners. And we hope that you will treat us as temporary caretakers (and co- owners), trying our best to work on our collective behalf. We will

work at a collegiality and transparency that we hope will help both atmosphere and performance. We are considering a variety of means, including some used in neighboring towns, to streamline our meetings, communicate with greater constancy and to be available to our constituents. More on this shortly. I hope I have given you a sense of both how I see Rye and what the initial preoccupations of this Council may be. I say “may be” because your City is as subject to chance and circumstance as any enterprise, and your Council is constituted of seven individuals. When considering our plans, I made a list of things I would like the City to do and another list of things coming to get us, whether we like it or not. And so we will work off both lists – and with your help—we’ll get things done. Thank you.”

George Latimer, Westchester County Executive, made a statement. He announced that he had recently authored an executive order that establishes a good neighbor policy from the County level. He said that the order will change the way that County government will operate. The order states that in the case of County-owned property, such as Playland in Rye, any significant action to be taken would require notice and a presentation to the local municipality. From that point, the municipality would be afforded 60 days to respond to the proposed action. County Executive Latimer asked that the Mayor appoint a point person for any future Playland issues. He also said that the County had recently authorized a contract for the sweeping of Playland, with an 8:00 A.M. starting time as a reasonable time.

Councilman Mecca asked if the County could gather a list of interested people within the community for special events happening at Playland. County Executive Latimer said that it was a reasonable request.

Mayor Cohn recognized County Legislator Catherine Parker, who was present at the meeting.

10. Designation of the official City newspaper.

Mayor Cohn made a motion, unanimously carried, to designate the Journal News as the official City newspaper for the purpose of publishing legal notices.

11. Designation of the amounts of faithful performance bonds.

By way of background, Section § C23-3, “Surety bonds” of the City Charter stipulates that “The City Comptroller, City Clerk, City Judge, Acting City Judge, City Marshal and such other officers and employees as may be specified by the Council shall give bond for the faithful performance of their duties. The bond shall be in such sum and with such corporate sureties as may be approved by the Council. The premium of all such surety bonds shall be paid by the city.” Mayor Cohn made a motion, unanimously carried by the Council, to designate the following Faithful performance bonds:

A.	City Comptroller	\$ 1,000,000
B.	City Clerk	\$ 500,000
C.	City Marshall	\$ 100,000

11a. Resolution to amend the City of Rye's FOIL procedures

Mayor Cohn explained that the proposed change to the FOIL procedures would avoid a potential conflict of interest. Corporation Counsel Wilson stated that under the Public Officers Law, a FOIL officer and FOIL appeal officer may be designated. This item would allow the City Council to be the appellate officer in the case of a conflict of interest with the current appeals officer, the City Manager.

Councilwoman Tagger-Epstein made a motion, seconded by Councilwoman Hurd, to add the following language to the City of Rye's FOIL procedures:

(e) If the City Manager's position is the subject matter involved in the original FOIL request that is being appealed or if the City Manager otherwise has a conflict of interest, any such appeal shall be heard by the City Council.

12. Acceptance of donation to the Rye Police Department from the Beyer family in the amount of Two Hundred and Fifty (\$250.00) Dollars.
Roll Call.

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

WHEREAS, the Beyer family desires to donate Two Hundred and Fifty (\$250) Dollars to the Rye Police Department; and

WHEREAS, the fiscal 2018 General Fund budget did not anticipate these donations; now, therefore be it

RESOLVED, that the City Council of the City of Rye accepts the aforementioned donations; and be it further

RESOLVED, that the City Comptroller is authorized to amend the fiscal 2018 General Fund budget as follows: Increase Deferred Revenues - Police Donations \$250.00.

ROLL CALL

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

13. Miscellaneous communications and reports.

Councilwoman Hurd said that she had recently attended the Chamber of Commerce meeting. She said that the Chamber was thankful for the free parking during the holiday week. Councilwoman Hurd thanked the Chamber for their donation to offset lost revenues for that week. Councilwoman Hurd then announced that on Saturday, January 13, 2018, the Rye Arts Center would be hosting a free arts day from 12:00 to 3:00 P.M. She also announced that the Healing Arts Collective would be holding free workshops on Thursday, February 1, from 7:00 to 9:00 P.M. at Rye Recreation. Councilwoman Hurd then stated that the Rye YMCA is pleased to invite the community to the “Heads Up” reception on Thursday, January 24, 2018 from 5:00 to 7:00 P.M. Councilwoman Tagger-Epstein explained that the reception will honor the winners of the annual poster contest on safe driving. Councilwoman Hurd then reported that the Flood Advisory Commission continues to await the updated documents that will move the sluice gate project forward. She lastly announced that the Boat Basin Commissions’ next meeting will be held January 22, 2018 at 7:00 P.M. at Rye Recreation.

Councilwoman Goddard stated that from the time the newly elected officials were preparing to step into the roles of City Councilmembers, the City staff had been very helpful. She thanked the staff for taking the time to provide the Council with an informative two-day orientation. She also thanked City staff for putting on a great inauguration ceremony. She then thanked the DPW staff for combating the recent “bomb cyclone” snow storm. Councilwoman Goddard was happy to announce that the Sustainability Committee had two new co-chairs, Melissa Grieco and Annalise Stack. She thanked the new co-chairs for all of their hard work so far.

Councilman Mecca reported that last fall, the Planning Commission heard an application before from Con Ed with regard to compressed natural gas. He explained that Con Ed was worried about having an extended and severe cold spell. To alleviate that possible issue, Con Ed had 12 trailers of compressed natural gas on site. He thanked the staff who made sure that this endeavor had a safe installation to benefit the residents of the City. Councilman Mecca reported that for three days, the City had the benefit of using this emergency resource during the extreme cold.

14. Old Business.

There was nothing discussed under this agenda item.

15. New Business.

There was nothing discussed under this agenda item.

16. Adjournment.

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn the regular meeting of the City Council at 8:30 P.M.

Respectfully submitted,

Carolyn D'Andrea
City Clerk



CITY COUNCIL AGENDA

NO. 5

DEPT.: City Manager's Office

DATE: January 24, 2018

CONTACT: Marcus Serrano, City Manager

AGENDA ITEM: 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 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; and (c) 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.

FOR THE MEETING OF:

January 24, 2018

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the City Council continue the Public Hearing to approve the changes in the City Code regarding telecommunications devices.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Local law Chapter 196, "Wireless Telecommunications Facilities" was adopted in 1997 with modifications in 2003. Due to the continuing evolution of telecommunications technology and demands, the recommendation is to make changes to Chapters 133, 167 and 196 of the Rye City Code to address telecommunications devices regarding size, visual impact, placement and permit process.

See Attached Updated Draft Local Laws **revised as of November 3, 2017.**

CITY OF RYE
LOCAL LAW NO. ____ 2017

A local law to amend Chapter 133 “Noise” Section 3 “Permissible Intensity of Noise” and Section 4 “Points and method for measuring intensity of sound” to reflect changes in technology related to the deployment of wireless services and other supporting equipment as follows:

Section 1:

Chapter 133: Noise

§133-1 Unnecessary noise prohibited.

Subject to the provisions of this chapter, the creation of any unreasonably loud, disturbing and unnecessary noise is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

§133-2 Prohibited acts. ***

§133-3 Permissible intensity of noise.

[Amended 8-21-1991 by L.L. No. 19-1991]

Except for noise emanating from the operation of motor vehicles, the permissible intensity of noise from any of the foregoing acts, whether such noise is intermittent, impulsive, sporadic or continuous, shall be limited as follows:

- A. Maximum sound pressure [db(A)] shall be as follows:
- (1) Fifty-five db(A) for stationary sources and 70 db(A) for outdoor power tools.
 - (2) Portable air compressors and their related equipment are limited to 76 db(A).
 - (3) Lawn mowers, leaf blowers, and outdoor vacuum cleaners shall have a permitted intensity of 85 db(A); use of this equipment is prohibited between the hours of 8:00 p.m. and 8:00 a.m. on weekdays and between the hours of 6:00 p.m. and 10:00 a.m. on weekends and holidays. The permitted intensity and hours described in this subsection will apply to leaf blowers during months when the use of leaf blowers is permitted.
 - (4) Air-conditioning units and pool filters are limited to 60 db(A).

§133-4 Points and method for measuring intensity of sound.

- A. Except for noise emanating from the operation of motor vehicles, the point at which the intensity of sound is to be measured shall be at a distance of 50 feet, except that noise from:
- (1) Air-conditioning units and pool filters at a distance of 10 feet.
 - (2) Stationary utility or communications facilities ~~located on public property~~ shall be measured at a distance of 50 feet, or, if less, **in areas zoned for residential use**, the distance from the facility or its supporting structure to a sidewalk or the nearest private residential property line, but no less than 10 feet. For any such facilities, the measurements should include noise from that facility and all other stationary utility

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or communications facilities proximately associated with the stationary utility or communications facility or its Supporting Structure.

- B.** Measurement shall be made using a meter capable of measuring decibels and of a type meeting ANSI S1.4-1971, Type 2 standard. The measurement is to be made using a free-field microphone directed at the noise source.

Section 2: Severability.

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

Section 3: Effective date.

This local law will take effect immediately on filing in the office of the Secretary of State.



CITY COUNCIL AGENDA

NO. 6

DEPT.: City Manager

DATE: January 24, 2018

CONTACT: Marcus Serrano, City Manager

AGENDA ITEM: Consideration to set a Public Hearing for February 7, 2018 to amend local law Chapter 176, "Energy Conservation", of the Rye City Code by amending provisions related to the Sustainable Energy Loan Program in the City of Rye in accordance with Article 5-L of the General Municipal Law.

FOR THE MEETING OF:

January 24, 2018

RYE CITY CODE,

CHAPTER 176

SECTION

RECOMMENDATION: That the Council set a Public Hearing for February 7, 2018 to amend local law Chapter 176, "Energy Conservation", of the Rye City Code by amending provisions related to the Sustainable Energy Loan Program in the City of Rye in accordance with Article 5-L of the General Municipal Law.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

See attached proposed Local Law.

LOCAL LAW NO. – 20

A LOCAL LAW TO ESTABLISH A SUSTAINABLE ENERGY LOAN PROGRAM IN THE _____

Be it enacted by the [County/City/Town/Village] of _____ as follows:

Section 1. This Local Law shall be known as the “Energize NY Benefit Financing Program,” and shall read as follows:

ARTICLE I

§1. Legislative findings, intent and purpose, authority.

- A. It is the policy of both the _____ and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The _____ finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This chapter establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation, acting on behalf of the _____ pursuant to the municipal agreement to be entered into between the _____ and EIC pursuant to Article 5-G of the New York General Municipal Law (the “Municipal Agreement”), to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this law and fulfilling an important public purpose.
- B. The _____ is authorized to implement this Energize NY Benefit Financing Program pursuant to the Municipal Home Rule Law and Article 5-L of the New York General Municipal Law.
- C. This law shall be known and may be cited as the “Energize NY Benefit Financing Program Law of the _____”.

§2. Definitions

For purposes of this law, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

10/25/17 DRAFT

Authority – The New York State Energy Research and Development Authority, as defined by subdivision two of section eighteen hundred fifty-one of the Public Authorities Law, or its successor.

EIC – the Energy Improvement Corporation, a local development corporation, duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law, authorized hereby on behalf of the _____ to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this law) and providing for repayment of such funds from monies collected by the _____ tax collecting officer as a charge to be levied on the real property and collected in the same manner and same form as the _____ taxes.

Energy Audit – A formal evaluation or “assessment” of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

Energy Efficiency Improvement – Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority, not including lighting measures or household appliances that are not permanently fixed to real property.

Qualified Property Owner – An owner of residential or commercial real property located within the boundaries of the _____ that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this law.

Renewable Energy System – An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the Qualified Property Owner is a commercial entity in which case the system may be used for other properties in addition to the subject property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the Authority not including the combustion or pyrolysis of solid waste.

Renewable Energy System Feasibility Study – A written study, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of determining the feasibility of installing a renewable energy system.

§3. Establishment of an Energize NY Benefit Financing Program

- A. An Energize NY Benefit Financing Program is hereby established by the _____, whereby EIC acting on its behalf pursuant to the Municipal Agreement, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this law, to finance the acquisition, construction and installation of Renewable Energy Systems and Energy Efficiency Improvements and the verification of the installation of such systems and improvements.
- B. For funds provided to a Qualified Property Owner which is a commercial entity, not-for-profit organization, or entity other than an individual, EIC shall have the authority to impose requirements on the maximum amount of funds to be provided, which may consider factors including but not limited to the property value, projected savings, project cost, and existing indebtedness secured by such property.
- C. For financings made to a Qualified Property Owner who is an individual, the funds provided shall not exceed the lesser of: (i) ten percent of the appraised value of the real property where the Renewable Energy Systems and/or Energy Efficiency Improvements will be located, or (ii) the actual cost of installing the Renewable Energy Systems and/or Energy Efficiency Improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

§4. Procedures for eligibility

- A. Any property owner in the _____ may submit an application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the _____ offices.
- B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the _____, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in section 5 of this law. EIC may also request further information from the property owner where necessary to aid in its determination.
- C. If a positive determination on an application is made by EIC acting on behalf of the _____, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under section 6 of this law; provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of Energy Efficiency Improvements and/or Renewable Energy Systems be deemed a Qualified Property Owner.

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§5. Application criteria

Upon the submission of an application, EIC acting on behalf of the _____, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:

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- A. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems are determined to be cost effective based on guidelines issued by the Authority;
- B. The property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;
- C. The amount financed under the Energize NY Benefit Financing Program shall be repaid over a term not to exceed the weighted average of the useful life of Renewable Energy Systems and Energy Efficiency Improvements to be installed on the property as determined by EIC;
- D. Sufficient funds are available from EIC to provide financing to the property owner;
- E. The property owner is current in payments on any existing mortgage;
- F. The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and
- G. Such additional criteria, not inconsistent with the criteria set forth above, as the _____, or EIC acting on its behalf, may set from time to time.

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§6. Opt-in, Energize NY Finance Agreement

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- A. A Qualified Property Owner may participate in the Energize NY Benefit Financing Program through the execution of an energize NY finance agreement made by and between the Qualified Property Owner and EIC, acting on the behalf of the _____ (the “Energize NY Finance Agreement”).
- B. Upon execution of the Energize NY Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC acting on behalf of _____, for the acquisition, construction, and installation of qualifying Renewable Energy Systems and Energy Efficiency Improvements; provided the requirements of Section 7 of this law have been met.
- C. The Energize NY Finance Agreement shall include the terms and conditions of repayment set forth under section 8 of this law.

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§7. Energy audit, renewable energy system feasibility study

- A. No funds shall be made available for Energy Efficiency Improvements unless determined to be appropriate through an Energy Audit as defined in Section 2.
- B. No funds shall be made available for a Renewable Energy System unless determined to be feasible through a Renewable Energy System Feasibility Study as defined in Section 2.
- C. The cost of such Energy Audit and/or Renewable Energy System Feasibility Study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

§8. Terms and conditions of repayment

The Energize NY Finance Agreement between the Qualified Property Owner and EIC acting on behalf of the _____, shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds paid to the Qualified Property Owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on their _____ tax bill and shall be levied and collected at the same time and in the same manner as _____ property taxes, provided that such charge shall be separately listed on the tax bill. The _____ shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the date the payment is due to be made to _____.
- B. The term of such repayment shall be determined at the time the Energize NY Finance Agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of the _____.
- C. The rate of interest for the charge shall be fixed by EIC acting on behalf of the _____ at the time the Energize NY Finance Agreement is executed by the property owner and EIC.
- D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program as set forth in Article 5-L of the General Municipal Law and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

§9. Verification and report

10/25/17 DRAFT

- A. EIC shall be responsible for verifying and reporting to the _____ on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such Program.
- B. The _____ shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

Section 2. This local law shall take effect upon filing with the Secretary of State.

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CITY COUNCIL AGENDA

NO. 7

DEPT.: City Council

DATE: January 24, 2018

CONTACT: Mayor Josh Cohn

AGENDA ITEM: Appointments to Boards and Commissions, by the Mayor with Council approval.

FOR THE MEETING OF:

January 24, 2018

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: that the City Council approve the appointments.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

- A) One appointment to the Board of Ethics for a three-year term
- B) Three appointments to the Conservation Commission/Advisory Council for a three-year term
- C) Two appointment to the Traffic & Pedestrian Safety Committee for a three-year term
- D) Three appointments to the Planning Commission for a three-year term.



CITY COUNCIL AGENDA

NO. 8

DEPT.: City Council

DATE: January 24, 2018

CONTACT: Mayor Josh Cohn

AGENDA ITEM: Designation of the Chair of the Planning Commission by the Mayor.

FOR THE MEETING OF:

January 24, 2018

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Mayor designate a Chairman of the Planning Commission.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Section § C18-1, "Planning Commission; appointment" of the City Charter stipulates that "The Mayor annually shall designate a member of said Planning Commission to act as Chairman thereof; or on the Mayor's failure so to do, the Planning Commission shall elect a Chairman from its own members. The Council member shall not be Chairman of the Commission".



CITY COUNCIL AGENDA

NO. 9

DEPT.: City Manager

DATE: January 24, 2018

CONTACT: Marcus Serrano, City Manager

AGENDA ITEM: 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 2018.

FOR THE MEETING OF:

January 24, 2018

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council consider granting the request.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Since 1949, May has been designated as mental Health Awareness Month. The National Alliance on Mental Illness (NAMI) will be holding a NAMI WESTCHESTER walk on Saturday, May 19, 2018 at Rye Town Park. To further raise awareness they will conduct a Mental Health Awareness ribbon initiative during the month of May 2018.

NAMI is requesting that the City of Rye again participate in the awareness ribbon campaign by tying ribbons on the trees in the Central Business District during the month of May 2018. NAMI will be responsible for the installation and removal of the ribbons. The City participated in the Awareness Ribbon Campaign in previous years (2013, 2014 and 2017).



CITY COUNCIL AGENDA

NO. 10

DEPT.: City Manager

DATE: January 24, 2018

CONTACT: Marcus Serrano

AGENDA ITEM: Consideration of a request by the American Legion Post 128 and the Ladies Auxiliary of Post 128 to approve a parade to commemorate Memorial Day to be held on Monday, May 28, 2018 from 9:45 a.m. to 10:15 a.m.

FOR THE MEETING OF:

January 24, 2018

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council consider granting the request.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

The American Legion Post 128 and the Ladies Auxiliary of Post 128 is requesting the Council approve a parade to commemorate Memorial Day to be held on Monday, May 28, 2018 from 9:45 a.m. to 10:15 a.m.

See attached request from Robin Phelps Latimer, Parade Coordinator.



CITY COUNCIL AGENDA

NO. 11

DEPT.: City Manager

DATE: January 24, 2018

CONTACT: Marcus Serrano

AGENDA ITEM: Consideration of a request by the American Legion Post 128 and the Ladies Auxiliary of Post 128 to have a food truck at the Memorial Day event to be held on Monday, May 28, 2018 from 9:45 a.m. to 10:15 a.m.

FOR THE MEETING OF:

January 24, 2018

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council consider granting the request.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

The American Legion Post 128 and the Ladies Auxiliary of Post 128 will host the parade and event to commemorate Memorial Day on Monday, May 28, 2018 from 9:45 a.m. to 10:15 a.m. They are requesting approval from the City Council for a food truck to be set up on Haviland Lane for the duration of the event.