

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on June 11, 2014 at 7:30 P.M.

PRESENT:

JOSEPH A. SACK Mayor
LAURA BRETT
KIRSTIN BUCCI
JULIE KILLIAN
TERRENCE McCARTNEY
RICHARD MECCA
RICHARD SLACK
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. General Announcements

Announcements were made regarding upcoming events and activities that may be of interest to the community.

4. Presentation by Mayor and City Manager of Certificates of Public Service to members of the City staff who have reached milestone in their service to the City of Rye

This Agenda item will be adjourned until the September meeting.

5. Draft unapproved minutes of the regular meeting of the City Council held May 21, 2014

Councilman Mecca made a motion, seconded by Councilwoman Brett and unanimously carried, to approve the minutes of the regular meeting of the City Council held on May 21, 2014.

6. Issues Update/Old Business

Sustainable Playland (SPI) – Mayor Sack announced that County Executive Astorino has rescinded the Asset Management Agreement with SPI. He said the City will wait to hear if any other plans may be proposed for the site and will attempt to insure that all environmental impacts to any plan are fully vetted and appropriately reviewed. He added that he hopes the County will include the City in whatever else is planned going forward.

Affordable Housing Settlement – Mayor Sack said he has been invited to a meeting with County Legislator Kaplowitz regarding potentially amending the Agreement between the Department of Housing and Urban Development (HUD) and the County of Westchester regarding the Affordable Housing Settlement. The Mayor said it is his understanding that HUD wants to have the ability to make their own assessment regarding the impediments to fair and affordable housing, which was the County’s responsibility under the original agreement. The Mayor will report back to the Council regarding what happens at the meeting.

Granger Field Sewer Pipe – City Manager Culross reported that the pipe that burst under the field had been fixed.

Sustainability Committee – Councilwoman Killian reported that there have been resident complaints that the plastic bag ban is not being adhered to by some merchants. The Corporation Counsel has been asked to discuss with the Building Inspector the mechanism for issuing warning letters to the merchants. Councilman Mecca was asked to speak to the merchants at a Chamber of Commerce meeting.

Traffic and Pedestrian Safety Committee – Councilwoman Killian reported on the agenda for the next meeting.

7. Presentation on City Financials by Robert Daniele of the auditing firm of O’Connor Davies, LLP

Robert Daniele of O’Connor Davies, LLP presented the audit results for the City for fiscal year 2013. An Unmodified Opinion was issued, which is the highest level of opinion that an entity can receive. The focus of the report was on the General Fund, the main operating account of the City. The original adopted budget for revenue was \$30.9 million - 60.8% of which comes from real property taxes; 8% from non-property taxes; 6% from licenses and permits; and, 8% from State aid. Expenses originally adopted were \$32 million with an expected use of \$1.4 million from Fund Balance. Actual revenues for the year were \$34 million. Total expenses were \$32.2 million. The net earnings for the year were \$1.28 million. The City ended the year with \$12.3 million. Some of these funds are restricted for compensated absences; some funds are assigned for encumbrances; some funds are set aside for tax certiorari settlements and \$1.6 million was used to balance the 2014 budget. The remaining Unassigned Fund Balance is \$5.9 million up about \$1 million from the prior year. The unassigned portion is about 17% of next year’s budget. At the end of the current fiscal year the total bonded debt outstanding was \$18 million, broken down into governmental activities (\$16 million) and enterprise funds (\$1.9 million). Total debt service payments over the next few years on governmental activities amount to \$1.7 million, which is about 5% of the General Fund. The City advance refunded certain debt

in 2013 and was able to reduce its total debt service payments over 13 years by about \$415,000. Moody's assigned its highest credit rating (Aaa) to the City's debt.

Mayor Sack asked Mr. Daniele to report on the comments made in the report on control deficiencies in such areas as Capital Projects; Capital Assets; Journal entries; and Procurement and Bidding policy and asked the City Manager to prepare a response with a plan for corrective action.

Members of the City Council made comments and asked questions regarding aspects of the report including: increases in employee wages and benefits going forward; contingent losses; OPEB (Other Post Employment Benefits); and the correct amount that should be maintained in the City's Unassigned Fund Balance.

Mayor Sack said he had asked how the City's losses from the fraud at the Golf Club would be accounted and was told that if it needed to be accounted it would be a footnote in the 2012 audited financials, which would have to be amended. *Ted Carroll, 945 Forest Avenue*, said he believed there should be disclosure of the Golf Club fraud in the financial reports because it relates to materiality and violation of the City's internal controls.

8. Continuation of the Public Hearing to change the zoning designation of County-owned property located on Theodore Avenue and North Street to the RA-5 District to provide for the construction of affordable senior housing. It is anticipated that the Public Hearing will be held over while documents are reviewed

Mayor Sack announced that he has asked Councilmembers McCartney, Bucci and Slack to act as a City Council working group in connection with this matter. Councilman McCartney reported on what the group had done since the last meeting and explained were the City was in the SEQRA process. He said the working group will work with Tenen Environmental, the professional engineering firm that was hired by the City. Tenen will review all the information in order to determine if the City has enough information to issue a negative or positive declaration in connection with the proposed project. It is hoped that a formal memorandum will be issued prior to the July City Council meeting. City Planner Miller said the memorandum will provide some guidance for the Council, but comments at the public hearing could generate a need for further information.

Councilman McCartney made a motion, seconded by Councilman Mecca and unanimously carried, to continue the public hearing to the July City Council meeting.

9. Public Hearing to amend local law Chapter 191, Vehicles and Traffic, of the Rye City Code by amending Section §191-19, "No parking any time" to prohibit parking on the north side of Mead Place; and Section §191-19-1, "Parking prohibited certain hours" to remove the restriction of no parking on Mead Place Monday through Saturday from 7:00 a.m. to 6:00 p.m.

Councilman Mecca made a motion, seconded by Councilwoman Brett and unanimously carried, to open the public hearing.

City Manager Culross said that 100% of the neighbors have signed the petition for the change and the YMCA has also agreed to it. Brian Dempsey, Chair of the Traffic and Pedestrian Safety Committee, said that the Committee had recommended this action three years ago but at that time there was not a consensus of the neighbors.

Councilman Mecca made a motion, seconded by Councilwoman Brett and unanimously carried, to close the public hearing.

Councilwoman Killian made a motion, seconded by Councilwoman Brett, to adopt the following Resolution:

RESOLVED that §191-19 “No parking any time” of the Rye City Code is amended to prohibit parking on the north side of Meade Place; and be it further

RESOLVED that §191-19-1 “Parking prohibited certain hours” is amended to remove the restriction of no parking on Mead Place Monday through Saturday from 7:00 a.m. to 6:00 p.m.

ROLL CALL:

AYES:	Mayor Sack, Councilmembers Brett, Bucci, Killian, McCartney, Mecca and Slack
NAYS:	None
ABSENT:	None

The Resolution was adopted by a 7-0 vote.

10. Consideration of referral to the Board of Architectural Review and the Planning Commission, the request from the Landmarks Advisory Committee to landmark the Rye Meeting House and the Bird Homestead

Jack Zahringer, Chair of the Landmarks Advisory Committee, said that the Committee would like to landmark both the Rye Meeting House and the Bird Homestead and their properties as well. Mayor Sack asked the Committee to provide a detailed explanation of why the Committee is seeking to have the properties landmarked.

Councilwoman Brett made a motion, seconded by Councilman McCartney and unanimously carried to adopt the following Resolution:

RESOLVED, that the City Council of the City of Rye hereby refers the request of the Landmarks Advisory Committee to landmark the Rye Meeting House and the Bird Homestead to the

Planning Commission and Board of Architectural
Review for their comment.

11. Discussion regarding ways to engage in historic preservation and maintain the intrinsic character of Rye's community by keeping the Smoke Shop as a central meeting place in Rye

Mayor Sack provided background on issues related to the Smoke Shop as a result of a new owner purchasing the property several years ago. The owners would like to find a way to keep the Smoke Shop but also to realize a return on their investment. They have presented a proposal that would bring in another tenant, a bank, for a portion of the building and leave the Smoke Shop. However, for several years, additional banks have been prohibited in the Central Business District. The Mayor raised three possible options, if the Council was inclined to take action: (1) lift or modify the prohibition on banks; (2) create an incentive for owners who engage in historic preservation; or, (3) the owner could request a use variance from the Zoning Board of Appeals. Neil DeLuca, one of the owners of the property, outlined his company's options: (1) ask the Smoke Shop to vacate the premises and renovate the building for another tenant; or, (2) request the City Council to make a zoning change that would allow a bank at that location. He said the bank would be willing to pay an above market rent, which would allow the Smoke Shop to continue at a below market rent. There was a discussion among the members of the Council regarding the merits of the owner's proposals, particularly the second option. Several members of the public including *Tony D'Onofrio, Owen Nee, Lindsey Russell, Bob Zahm, Ted Carroll and Amber Nee* spoke in support of keeping the Smoke Shop in its current location.

12. Discussion of the recommendation by the Traffic and Pedestrian Safety Committee that a Pilot Study be conducted to test the effect of reducing the speed limit to 25 miles per hour on Stuyvesant Avenue, and/or to remove the rocks and Belgian block in the City right of way

Brian Dempsey, Chair of the Traffic and Pedestrian Safety Committee (TPS), summarized the last discussion of this issue based on a TPS recommendation for a pilot study to reduce the speed limit to 25 miles per hour on Stuyvesant Avenue. He additionally reported on TPS evaluations of alternate suggestions provided at that meeting. They felt that converting Stuyvesant and Forest Avenues to one-way would create too much of an impact and do not recommend it. The suggestion of putting a three-foot wide patch on each side of the roadway to create a walkway was studied and would cost about \$150,000 and could have impacts on drainage. The third alternative investigated dealt with rocks and Belgian block on the side of the roads. He said the City does not have an official curb policy but added that TPS has been recommending for ten years that the rocks be removed. *Jennifer Neren* said that, as requested, she has provided the Council with data that backs up the argument she raised last time that speed does matter. *Paul Leand* of Stuyvesant Avenue said that the pilot to reduce the speed limit was a common sense issue and a community issue and the problem on Stuyvesant Avenue is that there is no time for people to move out of the street to avoid a car. There was a lengthy Council discussion which touched on the data provided by Ms. Neren; the TPS recommendation regarding the speed pilot being done at this location; the need for identifying a goal for the pilot;

removing the rocks and Belgian block that are in the right-of-ways; the possibility of reducing the speed limit throughout the City; utilizing speed bumps; and the use of signs to reduce speed. The City Manager was asked to provide an estimate of what it would take and cost to widen Stuyvesant Avenue. Corporation Counsel Wilson recommended that the City hold a public hearing on a local law to reduce the speed limit before implementing the proposed pilot. Ms. Wilson was asked to prepare a local law so the Council could set a public hearing at its next meeting.

13. Consideration to set a Public Hearing for July 9, 2013 to amend local law Chapter 76, "Dogs", Section §76-5, "Running at large prohibited" and Section §76-6, "When lease required" to establish regulations for the leasing of dogs at Rye Town Park

Councilwoman Brett summarized the issues regarding dogs being off leash in Rye Town Park, which is currently against the law. There is a conflict between people who want to use the park and not worry about dogs being off leash and the people who want to exercise their dogs in the park off leash. There was discussion at the last Rye Town Park Commission meeting about the City adopting a law that would allow dogs to be off their leashes in certain locations and at certain hours. Ms. Brett said that in order to implement such legislation there would need to be cooperation from the dog owners that they will adhere to the hours restrictions, as well as enforcement on the part of the City. Public comment was made both in favor and against dogs being allowed to be off their leashes in the park. Those speaking included *Patsy Guido, Suki van Dijk, Linda Wells and Deirdre Curran*.

Councilwoman Brett made a motion, seconded by Councilman McCartney, to adopt the following Resolution:

WHEREAS, the Council wishes to consider amending Chapter 76, "Dogs" of the Code of the City of Rye by amending Sections 76-5 to establish regulations to allow dogs to be at large during certain hours at Rye Town Park; and

WHEREAS, it is now desired to call a public hearing on such proposed amendments to the law, now, therefore, be it

RESOLVED, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on July 9, 2014 at 7:30 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

Section 2. Such notice of public hearing shall be in substantially the following form:

PUBLIC NOTICE
CITY OF RYE

**A Local Law to amend Chapter 76, “Dogs”, §76-5,
“Running at large prohibited” to establish regulations
to allow dogs to be at large during certain hours
at Rye Town Park**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 9th day of July 2014 at 7:30 P.M. at City Hall, Boston Post Road, in said City, at which time interested persons will be afforded an opportunity to be heard concerning a proposal local law to amend Chapter 76, “Dogs”, §76-5, “Running at large prohibited” to establish regulations to allow dogs to be at large during certain hours at Rye Town Park.

Copies of said proposed local law may be obtained from the office of the City Clerk.

Dawn F. Nodarse
City Clerk
Dated: June 27, 2014

14. Consideration to set a Public Hearing for July 9, 2014 on a proposed local law amending Article 6, “Council” of the Charter of the City of Rye to amend §C6-2 “Powers and duties” to add Section G to provide all Council members with the same authority as the Mayor as outlined in Section C7-1G to “examine the books, papers and accounts of any board, commission, department, office or agency of the city.”

Councilwoman Brett made a motion, seconded by Councilwoman Killian, to adopt the following Resolution:

WHEREAS, the Council wishes to consider amending Article 6, “Council”, of the Charter of the City of Rye by amending §C6-2, “Powers and duties” in order to provide the Council the same authority as the Mayor to examine the books, papers and accounts of any board, commission, department, office or agency of the city ; and

WHEREAS, it is now desired to call a public hearing on such proposed amendments to the law, now, therefore, be it

RESOLVED, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on July 9, 2014 at 7:30 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

Section 2. Such notice of public hearing shall be in substantially the following form:

PUBLIC NOTICE
CITY OF RYE

A Local Law to amend Article 6, “Council”, §C6-2, “Powers and duties” of the Charter of the City of Rye by adding §G to provide all Council members with the same authority as the Mayor as outlined in §C7-1G to “examine the books, papers and accounts of any board, commission, department, office or agency of the city.”

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 9th day of July 2014 at 7:30 P.M. at City Hall, Boston Post Road, in said City, at which time interested persons will be afforded an opportunity to be heard concerning a proposal local law to amend Article C, “Council, §C6-2, “Powers and duties” of the Charter of the City of Rye by adding §G to provide all Council members with the same authority as the Mayor as outlined in §C7-1G to “examine the books, papers and accounts of any board, commission, department, office or agency of the city.”

Copies of said proposed local law may be obtained from the office of the City Clerk.

Dawn F. Nodarse
City Clerk
Dated: June 27, 2014

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

Bob Zahm, 8 Ridgewood Drive, asked if the meetings of the Traffic and Pedestrian Safety Committee were announced and agendas published prior to the meetings. He was told that the agendas are not published but the meetings are announced on the calendar on the City website.

He said he wanted to express his concerns about the intersection of Central Avenue and Boston Post Road and the parking space between the two crosswalks.

16. Presentation of the City of Rye Stormwater Management Program 2013 Annual Report

City Engineer Ryan Coyne presented the 2013 Annual Report on the City's Stormwater Management Program as required by law. In 2003 the New York State Department of Environmental Conservation (DEC) came out with Phase II regulations which require municipalities to develop a Stormwater Management Program. The MS4 report must be presented at a public meeting. There are six different tasks required: (1) Public Education and Outreach where the City develops flyers and tries to educate the public on stormwater measures; (2) Public Involvement and Participation, which includes this presentation and the work of the Planning Commission, Board of Architectural Review and Conservation Commission/Advisory Council in reviewing plans; (3) Illicit Discharge Detections and Elimination, which requires that stormwater and sewage are kept separate; (4) and (5) Construction and Post-construction Measures, which involve obtaining Surface Water Control Permits, which require installation of silt fences and other erosion control measures; and (6) Municipal Operations and Good Housekeeping, which is things the City does such as sweep the streets and clean the drains in the Spring.

17. Resolution to revise the Mission Statement for the Finance Committee

This Agenda item was adjourned.

18. Presentation on Smart Parking Technology

Jerome Theunissen, a Rye High School Senior doing an internship with the Sustainability Committee, made a presentation on his research into Streetline, Inc., a company that specializes in Smart Parking. He gave an overview of issues for both shoppers and merchants based on the difficulty in finding parking in the Central Business District at certain hours. He briefly explained the types of technology that are offered by the company, and how it could be used to benefit both shoppers and merchants and also provide data for officials to use in determining the best ways to deal with parking issues in Rye.

19. Resolution ratifying the appointment of one member to the Emergency Medical Services Committee for a three-year term ending June 30, 2017.

Mayor Sack made a motion, seconded by Councilman McCartney and unanimously carried, to adopt the following Resolution:

RESOLVED, that the City Council of the City of Rye hereby approves the reappointment of Bart DiNardo, the City of Rye Community Representative to the Emergency Medical Services committee for a three-year term ending on June 30, 2017.

20. Bid Award for the Annual Street Resurfacing contract (Contract #2014-02)

Councilwoman Brett made a motion, seconded by Councilman Mecca, to adopt the following Resolution:

RESOLVED that the City Council of the City of Rye hereby awards Contract 2014-02 - Annual Street Resurfacing to Bilotta Construction Corp., the lowest responsible bidder, in the amount of Four Hundred Eighty-Six Thousand, One Hundred Fifty-Six dollars (\$486,156.00).

ROLL CALL:

AYES: Mayor Sack, Councilmembers Brett, Bucci, Killian, McCartney, Mecca and Slack
NAYS: None
ABSENT: None

The Resolution was adopted by a 7-0 vote.

20A. One appointment to the Board of Architectural Review

Mayor Sack made a motion, unanimously approved by the Council to appoint John Barrett to the Board of Architectural Review for a three-year term expiring on January 1, 2017.

21. Appeal of denial of FOIL requests by Timothy Chittenden

This Agenda item was adjourned until the July Council meeting.

22. Appeal of denial of FOIL request by David McKay Wilson

David McKay Wilson has appealed the response by the City to his FOIL request seeking “the document sent from the state of NY, to the Rye City Assessors Department in 2014, which indicates that more than 400 Rye homeowners should be removed from the list of those receiving an exemption under the state’s STAR program”. Corporation Counsel Wilson said that the request was originally denied under the unlawful invasion of personal privacy exemption. She said she believes it is still applicable, but also believes that Section 425 of the Real Property Tax Law specifically exempts disclosure of this information. The section of the Real Property Tax Law deals with the Enhanced Star Exemption. The screenshot that the Assessor must agree to whereby she must confirm that she will not disseminate the information beyond her office also lends weight to the interpretation that the statutory prohibition would apply not only to the Enhanced Star Exemption but also the Regular Star Exemption. Councilwoman Killian said that the list does not indicate that someone is not following the rules regarding Star, but is merely a list of those who do not qualify any longer for the exemption. Councilman Slack said he

believed this case was a close call and there is a misperception about what the list is, which is driving the idea that it is useful to get it out to the public. He added that the State's requirement for the Assessor to say that she will not disclose the information indicates that the State views this information as personal and that it should be exempt and protected from disclosure.

Councilwoman Killian made a motion, seconded by Councilman Slack, to adopt the following Resolution:

RESOLVED that City Council of the City of Rye hereby denies the appeal of the response to the FOIL request submitted by David McKay Wilson seeking "the document sent from the state of NY, to the Rye City Assessors Department in 2014, which indicates that more than 400 Rye homeowners should be removed from the list of those receiving an exemption under the state's STAR program. The document includes the names and addresses of those who were deemed ineligible to receive the STAR exemption".

ROLL CALL:

AYES: Mayor Sack, Councilmembers Brett, Bucci, Killian, McCartney, Mecca and Slack
NAYS: None
ABSENT: None

The Resolution was adopted by a 7-0 vote.

23. Miscellaneous Communications and Reports

There was nothing reported under this Agenda item.

24. New Business

There was nothing reported under this Agenda item.

25. Adjournment

There being no further business to discuss Mayor Sack made a motion, seconded by Councilman McCartney and unanimously carried, to adjourn the regular meeting and go into executive session to discuss a personnel matter and not return into regular session at 12:12 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk