

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on October 8, 2014 at 8:00 P.M.

PRESENT:

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

ABSENT: None

The meeting was called to order at 8:20 p.m. Mayor Sack announced that the start of the meeting had been delayed because the City Council and School Board had been in executive session at the end of the Joint Meeting of the two boards that was held immediately preceding this meeting.

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 by the Council

Announcements were made regarding the Sustainability Committee, Rye Golf Club Elections, Breast Cancer Awareness month and other events and activities that may be of interest to the community.

4. Draft unapproved minutes of the regular meeting of the City Council held September 10, 2014

This agenda item was deferred to the October 22nd meeting.

5. Issues Update/Old Business

There was nothing discussed under this agenda item

6. Continuation of the Public Hearing to change the zoning designation of County-owned property located on Theodore Fremd Avenue and North Street to the RA-5 District to provide for the construction of affordable senior housing

Councilman Slack summarized activity that has occurred since the public hearing was opened in February. He said the Council has most of the information needed, but there are a couple of outstanding issues. A wetlands report has been received, which needs to be reviewed by a wetlands expert, and issues related to density on the site must be explored in order to determine the correct number of units that should be constructed on the site if the zoning change is approved. City Planner Miller reviewed the number of units that have been proposed for the site since it was first considered and said that the City can evaluate impacts from a review of the Environmental Assessment Form (EAF) submitted by the applicant plus the additional information provided as a result of Council questions and a review of the wetlands issues. He suggested the Council consider issuing a Negative Declaration in tandem with the zoning decision. Since the site plan would need to be reviewed by other boards, the Council could consider defining parameters in the SEQRA decision for future Boards to use when considering the application. Mayor Sack said that the County has indicated that they may make infrastructure improvements to the area including relocating a sewer line and traffic and safety improvements. He asked the Council subcommittee consisting of Councilmen Slack and McCartney and Councilwoman Bucci, to work with Corporation Counsel Wilson and City Planner Miller to draft a Resolution for the next Council meeting. There was a discussion regarding whether the SEQRA and zoning decision should be included in the same or separate Resolutions.

Public Comment:

Clark Neuringer, the architect for the project, said that the density issue should be part of the Planning Commission review process and that the Council should focus on the zoning proposal. *Walter Suarak* asked if the location of the site for affordable housing would be subject to attack in the housing settlement. Councilwoman Brett said that the concerns that have been raised have to do with all affordable housing being located in a single area.

Councilman Slack made a motion, seconded by Councilman McCartney and unanimously carried, to keep the public hearing open to the October 22nd meeting.

7. Continuation of Public Hearing to amend local law Article 6, "Council", Section § C6-2, "Powers and duties", Article 8 "City Manager", Section § C8-2, "Powers and duties of City Manager" and Article 12 "Department of Police", Section § C12-1, "Head of Department; subordinates" of the Charter of the City of Rye to provide the City Council with the authority to approve the appointment, suspension or removal of the Police Commissioner

Mayor Sack introduced this agenda item by saying a letter had been submitted by several former Councilmembers and Mayors in opposition to the proposed Charter Change. He referred to a statement in the letter that said that City Councils already have approval authority over the

selection of the Police Commissioner. He said this was not the case but if people already think the Council has this power, why not make the change. He said the Council is not looking to dismantle the City Manager form of government. The impetus is that the law, as written, is not working out. He did suggest that the portion of the draft law that deals with the suspension or removal of the Police Commissioner be removed.

Public Comment:

Former Councilman *John Alfano* spoke in favor of the proposed change saying that the City Manager has too many people reporting to him and the Council should have supervision over key department heads. *Joseph Murphy, Matt Fahey*, who read the entire letter that Mayor Sack had referred to earlier, *Shari Punyon, Thomas Lavan, Linda Lefkowitz, Harvey Geller, Leon Sculti, and Meg Cameron*, who also read a letter from former Mayor John Carey, spoke against the proposed local law. Their comments included the suggestion that any change to the Charter, especially one that would modify the City Manager form of government should be done by Charter Commission or public referendum; questioned why the Police Commissioner position was different from other positions; said making this change makes it look like there is something wrong in the Police Department; and said the Council has a specific function and should not take on too much. *Debbie Reisner*, who said she was representing the League of Women Voters, offered to hold an issue forum on the matter.

The members of the Council thanked the members of the public for their comment and each member, provided their own reasons for being in support of the proposed local law. Some of the reasons stated included: providing approval power for the hiring of the Police Commissioner will not damage the Council and Manager form of government; allowing the Council the power to consent to the City Manager's choice would improve that form of government; the job of Police Commissioner is different because the Police Department impacts residents on a daily basis; the public perception that the Council has the authority to approve the selection of a Police Commissioner needs to be formalized; the authority would be a check and balance, which would allow for minority voices to be heard; and, the Council relies on the advice of Corporation Counsel as to what decisions require a public referendum. Several members of the Council stated that they were now more comfortable with the proposed law with the deletion of the section that dealt with the disciplining or removal of the Police Commissioner.

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

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

**CITY OF RYE
LOCAL LAW NO. 6 2014**

**A local law to amend the City Charter of the City of Rye Article 6 "Council",
Article 8 "City Manager", and Article 12 "Department of Police" to provide**

the City Council with the authority to approve the appointment of the Police Commissioner as follows:

Section 1: Chapter C. Charter.

Article 6. Council

§ C6-2. Powers and duties.

C. The Council shall appoint the City Manager as hereinafter provided and shall appoint a Corporation Counsel or hire an attorney as an independent contractor. Such Counsel or attorney shall be engaged in the practice of law in this state for at least five years immediately preceding his appointment or hiring. The Council shall also have approval authority over the appointment of the Police Commissioner.

Section 2.

Article 8. City Manager

§ C8-2. Powers and duties of City Manager.

B. **Subject to Article 12, Section C.12-1.A,** he shall appoint a City Comptroller, City Clerk, City Engineer, City Assessor, Building inspector, City Marshal, registrar of Vital Statistics and the heads of such other departments as may hereafter be created by the Council. All such officers shall in the performance of their duties be subject to the directions and supervision of the City Manager. Except for the Police Department, he may also appoint all subordinates in the departments headed by such officers, or he may authorize any administrative officer who is subject to his direction and supervision to exercise such power, subject to his approval, with respect to subordinates in that officer's department, office or agency.

C. **Subject to Article 12, Section C.12-1.A,** he shall, when he deems it necessary for the good of the service, suspend or remove any city officer or employee whom he may appoint or employ, except as otherwise provided by law.

I. He may, during the absence or disability of the City Comptroller, City Clerk, City Assessor or the head of any other office or department under his direction and supervision, assume all the powers of such office or department; and also, with the exception of the Police Commissioner, he may designate one of the employees in such office or department as a deputy who shall have the powers and duties of the City Comptroller, City Clerk, City Assessor or the head of such other office or department, as the case may be, during the absence or disability of such officer or during a vacancy in such office or department. With respect to the Police

Commissioner, the Manager shall obtain the consent of the Mayor and City Council.

Section 3.

Article 12. Department of Police

§ C12-1. Head of Department; subordinates.

- A. There shall be a Department of Police, the head of which shall be the Commissioner of Police, who shall be appointed by the City Manager, and he shall serve at the pleasure of the City Manager except that the City Manager shall obtain the consent of the Mayor and City Council when appointing, the Police Commissioner. The Commissioner of Police shall have at least the qualifications and experience specified by the Council.

Section 4: Severability clause

Section 5: This local law will take effect immediately on filing in the office of the Secretary of State.

ROLL CALL:

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

The Local Law was adopted by a 7-0 vote.

- 8. Continuation of Public Hearing to amend local law Chapter 197, "Zoning", of the Rye City Code by adding Section 197-15, "Special Permit for Historic Preservation in the B-2 Central Business District" to permit banks on the first floor of a building when certain conditions are met upon approval of a Special Use Permit by the City Council

Councilwoman Brett made a motion, seconded by Councilman Slack and unanimously carried to adjourn the public hearing to the October 22nd meeting.

- 9. Continuation of Public Hearing to amend local law Chapter 76, "Dogs", Section §76-5, "Running at large prohibited" and Section §76-6, "When leash required" to establish regulations for the leashing of dogs at Rye Town Park

Councilwoman Brett made a motion, seconded by Councilman Slack and unanimously carried to adjourn the public hearing to the October 22nd meeting.

10. Petition of Old Post Road Associates, LLC to change the zoning designation and amend the Zoning Ordinance for the property located at 120 Old Post Road to a new zone RA-6: Active Senior Resident District to provide for the construction of apartments for active seniors in an age-restricted development

Jonathan Kraut, attorney for Alfred Weisman Real Estate the applicant and owner of the property, made the presentation on behalf of his client. The property is a vacant three-story office building that has plummeted in value over the last five years, receiving tax reductions of approximately 54%. A previous proposal to put a hotel on the property was unsuccessful due to community opposition. Mr. Kraut said that none of the current allowed uses which include public recreation, education, extension of welfare uses and railroad passenger stations, provide a functional use for the property. The applicant is proposing what they consider to be a credible possible use of the property - a 135 unit luxury residential facility for people 55-years and older, with no children allowed - a use which can be created legally through zoning laws. Mr. Kraut requested that the Council declare itself lead agency under SEQRA and refer the petition to the Planning Commission for their review. There was a discussion about whether the Council should declare itself lead agency prior to referring it to the Planning Commission and whether or not the proposal was relevant to the City's Master Plan. City Planner Miller said that just because a Master Plan is old doesn't mean it is not relevant. He said the request is only to change the zoning for one specific area and the process will require an extensive environmental review.

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 declares its intention to declare themselves Lead Agency under SEQRA and refers the petition of Old Post Road Associates to change the zoning designation and amend the Zoning Ordinance for the property located at 120 Old Post Road to a new RA-6: Active Senior Resident District to provide for the construction of apartments for active seniors in an age restricted development to the Planning Commission for their review.

11. Summary of the 2015 Budget Process and Consideration of setting the 2015 Budget Workshop schedule

City Manager Culross said that the Budget schedule dates had previously been sent to the Council, but the order of presentations has been amended as follows:

Wednesday, November 5 th :	Presentation of the Budget
Wednesday, November 12 th :	Capital Projects Fund
	Building & Vehicle Fund
	Department of Public Works

Monday, November 17 th :	Public Safety: Police and Fire Recreation Golf Enterprise Fund Boat Basin Enterprise Fund Rye TV Special Review Fund
Wednesday, November 19 th :	Rye Free Reading Room Contract Service Agencies
Wednesday, December 3 rd :	Public Hearing on the Budget
Wednesday, December 17 th :	Adoption of the Budget

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

Jim Amico spoke about issues related to the Police Department including the present and former Police Commissioners; the role of the department in enforcement of the speed reduction adopted for “the loop”; and the lack of police presence in the schools. He also spoke about Brian Dempsey, Chair of the Traffic and Pedestrian Safety Committee, and the fact that his firm has received contracts from the City for traffic engineering work. Corporation Counsel Wilson said that the question of Mr. Dempsey’s job had been reviewed by the Ethics Committee prior to his being appointed to the Board. *Anne McCarthy* said there was an appearance of impropriety and maybe Mr. Dempsey should be dealt with as a consultant. A few members of the Council suggested that it may be time to reconsider policies regarding volunteer positions.

Ray Tartaglione spoke about Hen Island. Among other things, he thanked the Council for visiting Hen Island and said he wanted the solution for Hen Island to be the best for the residents of Rye, which are not always aligned with the interests of the County. Mayor Sack said that no final determination has been made yet regarding Hen Island.

13. Consideration of a request by the Leukemia and Lymphoma Society for use of city streets on Saturday, November 1, 2014 from 5:00 p.m. to 9:00 p.m. for their annual *Light the Night Walk* event

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

RESOLVED, that the City Council of the City of Rye hereby approves the request of the Leukemia and Lymphoma Society for use of city streets on Saturday, November 1, 2014 from 5:00 p.m. to 9:00 p.m. for their annual *Light the Night Walk* event.

14. Consideration of a request by the Recreation Department to hold their 38th annual *Turkey Run* on Saturday, November 29, 2014 during Thanksgiving Weekend

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

RESOLVED, that the City Council of the City of Rye hereby approves the request of the Recreation Department for the use of city streets to hold their 38th annual *Turkey Run* on Saturday, November 29, 2014 during Thanksgiving Weekend.

15. Consideration of a request by the Rye Merchants Association to close a portion of Purchase Street on Sunday, November 30, 2014 from 10:00 a.m. to 3:00 p.m. for the Mistletoe Magic event.

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

RESOLVED, that the City Council of the City of Rye hereby approves the request of the Rye Chamber of Commerce to close a portion of Purchase Street on Sunday, November 30, 2014 from 10:00 a.m. to 3:00 p.m. for the *Mistletoe Magic* event.

16. Miscellaneous Communications and Reports

There was nothing reported under this agenda item.

17. New Business

There was nothing reported under this agenda item.

18. Adjournment

There being no further business to discuss Councilwoman Killian made a motion, seconded by Councilwoman Brett and unanimously carried, to adjourn into executive session to discuss personnel matters and not return to the regular meeting at 11:35 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk