

APPROVED MINUTES of the Regular of
the City Council of the City of Rye held in City Hall
on October 22, 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

The Council convened at 6:35 p.m. Councilman Mecca made a motion, seconded by Councilman McCartney and unanimously carried to immediately move into executive session to discuss personnel. Councilman McCartney made a motion, seconded by Councilman Mecca and unanimously carried, to adjourn the executive session at 7:30 p.m. The regular meeting began at 7:35 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.

3. General Announcements by the Council

Announcements were made regarding various City departments and boards as well as events that may be of interest to the public. The Council offered congratulations to Eleanor Militana on her appointment as Assistant City Manager.

4. Draft unapproved minutes of the regular meetings of the City Council held September 10, 2014 and October 8, 2014 and the informal minutes of the Joint Meeting of the City Council and Board of Education held October 8, 2014

Councilwoman Brett made a motion, seconded by Councilman McCartney and unanimously carried, to approve the draft minutes of the regular meeting of the City Council held on September 10, 2014.

Approval of the minutes of the regular meeting of the City Council held on October 8, 2014 and the informal minutes of the Joint Meeting of the City Council and Board of Education was deferred.

5. Issues Update/Old Business

Deer Mayor Sack noted that this issue has been discussed by prior Councils but no one has come to a conclusion as to what to do. The District One Committee in Greenhaven met recently and would like the City Council to make this issue a priority. The Mayor said he reached out to representatives of the County including Deputy County Executive Kevin Plunkett, Chief of Staff George Oros and John Baker, the staff “deer control expert”, regarding a regional approach to the issue and asked them to consider convening a regional meeting. They said that if the City wants to engage in a deer control program – primarily culling by use of bow and arrow - the County will assist us. The Mayor suggested that the City could ask John Baker to come to another City Council meeting and suggested deferring further discussion until after a regional meeting is held or John Baker speaks at a Council meeting.

Rock Chipping Mayor Sack said that this issue has come up again recently in connection with a property on Highland Avenue that has become very disruptive to the neighborhood. City Manager Culross provided an overview of the requirements in the City to do rock chipping. He said that what is being done at the site is legal under the existing law and if the Council wanted to change it, they could make a legislative change. Mayor Sack suggested the Council may want to revisit the issue of imposing more restrictive measures to the current law. There was a lengthy discussion among the Council, impacted residents and the property developer about the issue. Residents speaking included: *Mel Durkee, Francis Ginsberg, Adele Centanni, Nancy Jane Carson, Doug Worman and Bob Zahm*. They raised issues regarding quality of life impacts to the community including health risks, social, economic and political costs; amending the Zoning Code; damage to trees; drainage issues; safety issues; and possibly changing the permitting process. *David Turiano*, the developer of the project under discussion, addressed issues related to his project and suggested changes that he would implement to deal with concerns raised by neighbors. Councilman Slack suggested that staff find out how other communities deal with the issue of rock chipping. Councilwoman Brett suggested that a subcommittee or task force should be set up to study the issue and undertake an exhaustive analysis. Mayor Sack suggested it should include a Council subcommittee and members of the public, and the Council would need to determine its charge.

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

Mayor Sack announced that there was nothing new to report and work was still being done so the public hearing would be continued to the next meeting.

Councilman Mecca made a motion, seconded by Councilman Slack and unanimously carried, to adjourn the public hearing to the November 5, 2014 City Council meeting.

7. 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

Mayor Sack said he wanted to add a sunset provision to the proposed local law which would deem the law expired at the end of three months if it is not renewed by the City Council. The appropriate language that should be used was discussed with Corporation Counsel Wilson.

Public Comment:

Irwin Lefkowitz, expressed concern about the building being in violation of the Americans with Disabilities Act (ADA) because it is not currently accessible and if modifying an historically protected building would violate ADA. *Lindsay Russell* urged the Council to do anything to save The Smoke Shop.

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

Councilwoman Killian said she was not comfortable with the local law because she did not believe it was the Council's role to get involved with particular landlords. Councilman McCartney said this was a "small town issue" and sometimes Council's need to do unorthodox things. Mayor Sack said adopting the law was only the first step in the process that would give the owner of the property an opportunity to apply for the Special Use Permit and a second Council vote would be needed for that.

Councilman McCartney made a motion, seconded by Councilman Mecca, to adopt the following local law:

**CITY OF RYE
LOCAL LAW NO. 7 2014**

A local law to amend the City Code of the City of Rye Chapter 197 "Zoning" by adding Section 197-15 "Special Use 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 and amending Section 197-86 "Table of Regulations" as follows:

Section 1: Chapter 197 "Zoning"

§ 197-15. Findings; intent.

- A. The Council creates this incentive-based special use permit in order to maintain the historic elements of convenience retail storefront design and uses which contribute to the character of the City's Central Business District. As such, the Council adopts a policy to incentivize the preservation of the character of the Central Business District by allowing in the B-2 Central Business District banks to be located on the first floor of a building on the condition that the historic nature of the building, or its contributing elements, are preserved and maintained. The purpose of this law is to achieve the following goals:
1. Promoting the preservation of buildings that have enhanced and defined the historic nature of Rye over the past decades.
 2. Preserving the existing small convenience and retail stores in the B-2 Central Business District and furthering the community needs to preserve a diverse economic base.
 3. Balancing the desire for historic preservation of certain buildings and uses with the need to allow for financially viable uses of buildings.
 4. Furthering the City's goal to provide incentive zoning techniques for development projects that meet a defined community need and desire such as historic preservation and maintaining community character.
- B. Procedures for Special Use Permits – permit applications.
1. Applications for a permit shall be made to the City Planner on forms furnished by the City Planner's office.
 2. An application for a permit shall not be deemed complete if it does not include all of the following information:
 - a. The application fee of \$150.
 - b. Complete plans for the building(s), or portions thereof, which the applicant believes furthers the intent of this Section and for the bank or other uses of the building(s) on the property.
 - c. Full environmental assessment form in accordance with the State Environmental Quality Review Act, except that a short environmental assessment form may be submitted at the discretion of the City Council.
 - d. A narrative from the applicant setting forth the reasons why the proposed building(s) to be preserved would further the intent of this law and promote the community character that the City wishes to maintain.
 - e. The City Council may require additional information as it deems appropriate.
 - f. By filing an application, the applicant thereby consents to the entry onto his land by the City Council or other agents designated by the City Council for the purpose of undertaking any investigation, examination, survey or other activity necessary for the purposes of this chapter.
- C. Special Use Permit Requirements; determining historic significance of application.

1. The Council will undertake a review of an application pursuant to this Section in a timely fashion and shall act within a reasonable period of time given the complexity of the application and the circumstances.
 2. The Council may, at its sole discretion, refer any application for this Special Use Permit for Historic Preservation to the Landmarks Committee for its review and comment.
 3. If the application is referred to the Landmarks Advisory Committee, the Committee shall provide any comments to the Council within thirty (30) days of the referral.
 4. The City Council shall also review the application to determine if it furthers the goals and intent of this Section. The Applicant shall bear the burden of proof by putting forth substantial evidence showing how the application meets the purposes and intent of this section and that its application should be considered for the special use permit.
 5. If the Council finds that the application furthers the purposes and intent of this Section, it shall simultaneously consider the application for the Special Use Permit and Site Development Plan in accordance with Rye City Code § 197-7. The City Council shall hold a public hearing to consider the approval of both the Special Use Permit and Site Development Plan.
 6. As part of any approval of the Special Use Permit and Site Development Plan, the City Council shall consider the following potential conditions, including, but not limited to:
 - a. A restrictive covenant that preserves the building(s), or portions thereof, in its current state and any modifications to such restrictive covenant shall be reviewed and approved by the City Council; and/or
 - b. A deed restriction that preserves the building(s), or portions thereof, in its current state and any modifications to such deed restriction can only be approved by the City Council; and/or
 - c. A façade easement or other restrictive easement that preserves the building(s), or portions thereof, in its current state and any modifications to such easement can only be approved by the City Council; and/or
 - d. All covenants, restrictions, and/or easements shall be recorded in the County Clerk's office; and/or
 - e. A maintenance plan that ensures the continued upkeep of the preserved building(s), or portions thereof; and/or
 - f. A community amenity such as landscaping or other improvement to further enhance the community character in the area near the proposed development; and/or
 - g. Any other condition that the City Council deems necessary to preserve the historical nature of the building(s) and to ensure that such preservation will continue into the future regardless of the owner.
- D. This law shall expire three months from the effective date of its filing. If an application is received within the three month period, it shall be considered timely and processed in accordance with this law.

Section 2.

Section 197-86, Table of Regulations: Table B, Business District – Use Regulations, Column 1, Permitted Main Uses, B-2 Central Business Districts, of the Code of the City of Rye, New York is hereby amended to amend subsection (1) to read as follows:

- (1) Nonresidence main uses permitted in B-1 Districts without restrictions as to location and conversions of existing buildings, except that offices for clerical, administrative, professional and agency uses shall not be located on the first floor of a building within the A Parking District, and banks shall not be permitted on the first floor of a building in the B-2 Central Business District, except where approved by the City Council pursuant to § 197-15.

Section 3.

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

ROLL CALL:

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

The Resolution was adopted with 5 votes in favor, 1 vote against and 1 abstention.

8. 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 said the goal of the proposed law was to reduce conflict between those who want to bring their dogs to the park and have them off leash and those who do not want to worry about dogs being off leash when they use the park. The proposal would allow dogs to be off lease between the hours of 6:00 a.m. and 9:00 am in a specified area west of the foot path and north of the duck pond. The Rye Town Park Commission (RTPC) has approved a policy change for a pilot project which would allow this, subject to a registration process being put into place that would include a Code of Conduct that the dog owners would be required to sign. The RTPC will reevaluate the policy in six months. The registration process will be administered through the City and a fee would be involved after the end of the pilot program. Mayor Sack said that the law may not solve all problems but would be a significant improvement but suggested that the City should also review how the law is working in six months.

Public Comment:

Irwin Lefkowitz asked if the law would be enforced because currently there are more dogs off leash in the park than on leash. He said parks are for people.

There was a discussion among the Council regarding enforcement. Councilwoman Brett said a goal was to get cooperation from the dog owners who must understand that if they want to have their dogs off leash in the park, they must be there during the specified hours. Mayor Sack said there can never be 100% enforcement of anything but the goal of the law is to increase the rate of enforcement by providing a time and place for people to have their dogs off leash in the park. Councilwoman Brett also said that the RTPC took issue with Rye Town Park being the only area where dogs would be allowed to be off leash and asked if there were other areas in Rye that might also be considered for this policy. Councilman McCartney said he would discuss this with the Recreation Commission.

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

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

**CITY OF RYE
LOCAL LAW NO. 8 2014**

**A local law to amend Chapter 76 “Dogs” of the
Code of the City of Rye to allow dogs to be at large during certain hours at Rye Town Park
as follows:**

Section 1: Chapter 76, Dogs

§ 76-5. Running at large prohibited; exceptions

- A.** Except as permitted in § 76-5(B), no person owning, harboring or having the custody and control of a dog shall permit such dog to be at large in the City of Rye, elsewhere than on the premises of the owner, except if it is on the premises of another person with the knowledge and assent of such other person.
- B.** During the hours of 6 a.m. to 9 a.m., the owner, harborer or person having the custody and control of a dog visiting the designated areas in § 76-5(F) shall control such dog at all times, but need not restrain such dog by a chain or leash. The maximum number of dogs off-leash that any one person shall have custody and control over is three. After 9 a.m., all dogs must be leashed or chained in accordance with this Chapter.
- C.** Any person wishing to allow his/her dog(s) to run at large without being restrained by a chain or leash shall register his/her dog(s) with the Rye City Clerk annually. Any

dog at large must have a valid registration tag affixed to his/her collar at all times when the dog(s) are at large.

- D.** Any violation of this Chapter may result in a fine of up to \$250 per violation and/or suspension or termination of the off-leash registration.
- E.** The registration fee will be set annually by the Rye City Council.
- F.** The designated areas within the City where dogs are permitted to run at large from 6 a.m. to 9 a.m. are:
 - a.** Rye Town Park in the grass area bounded by the walking path, Forest Avenue, Rye Beach Avenue and the duck pond (see annexed map).

§ 76-6. When leash required.

Except as set forth in § 76-5(B) above, the owner, harborer or person having the custody and control of a dog in the City of Rye which is not on the premises of the owner or upon the premises of another person with the knowledge and consent of such person shall control and restrain such dog by a chain or leash not exceeding eight feet in length.

Section 2: 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.

9. Public Hearing to amend local law Chapter 165 , “Signs”, of the Rye City Code by adding Section §165-10, “Regulation of banners”, to establish regulations for banners on City owned ball field fences and utility poles on City property

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

Mayor Sack said the Council was not ready to have a substantive discussion on the proposed local law at this meeting. The Council is looking at two specific areas where signs are not currently allowed: the telephone poles downtown and at ball fields and need to think through the process more. Councilman McCartney said that since Little League usually pays for improvements at the ball fields this could be a way for them to raise funds.

Public Comment:

Sis D’Angelo said that Mayor Hunziker had instituted the use of the sign at Cross Street to prevent the proliferation of signs in town. She also said that people who put signs on poles for

yard sales should be required to take them down and also objected to the signs that are put up near the schools.

Councilman Mecca made a motion, seconded by Councilman McCartney and unanimously carried, to adjourn the public hearing to the November 19, 2014 City Council meeting.

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

Bob Zahm spoke about sidewalks and the location of utility poles. He said the City should look at the practice of placement and modification of utility poles in relationship to sidewalks and particularly mentioned a pole on Locust Avenue off Theodore Fremd Avenue. Councilman Mecca spoke about the requirement that utilities must place their poles in the public right-of-way.

Deirdre Curran spoke about a meeting regarding Playland that had recently been held at the Library. She said communication about the meeting was lacking and it was important for people to learn about new proposals being made. She said that two additional meetings will be held on November 3rd and 17th.

Mayor Sack asked the City Manager to prepare an update on the status of the Bond Referendum projects for the next meeting. Mr. Culross said it would be part of the budget presentation.

11. Consideration for the City of Rye to join Sustainable Westchester

Sara Goddard, the Co-Chair of the Sustainability Committee said that the City was a member of the Southern Westchester Energy Action Consortium (SWEAC) which has merged with the Northern Westchester Energy Action Consortium (NWEAC) to form Sustainable Westchester. SWEAC was free but Sustainable Westchester has an annual membership fee of \$1,000. She said she believed it would be a benefit to the City to continue its membership in the new group.

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

RESOLVED, that the City Council of the City of Rye directs the City Manager to take the actions necessary for the City to become a member of Sustainable Westchester.

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.

12. Authorization for Silverberg Zalantis LLP to represent the City of Rye in the Article 78 proceeding commenced by Douglas Liman
Roll Call.

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

RESOLVED that the City Council of the City of Rye hereby authorizes the firm of Silverberg Zalantis LLP to represent the City of Rye in connection with the Article 78 Proceeding *Douglas E. Liman v. Nick Everett, Martha Monserrate, Laura Brett, Barbara Cummings, Hugh Greechan, Peter Olsen, Alfred Vitiello, constituting the Planning Commission of the City of Rye, Pankaj Gupta and Emily Gupta, Pam McGuire and Eugene McGuire* for an amount not to exceed Ten Thousand (\$10,000) Dollars.

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.

13. Authorization for City Manager to execute an Inter-municipal Agreement with the County of Westchester authorizing the operation of a transfer station at Public Works for organic waste
Roll Call.

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

RESOLVED, that the City Manager is hereby authorized to execute an Inter-municipal Agreement with the County of Westchester authorizing the operation of a transfer station at Public Works for organic waste and that it is, hereby, further,

RESOLVED, that the City declares that this action is a Type II action under the State Environmental Quality Review Act (“SEQRA”) and no further environmental review is necessary.

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.

14. Consideration of the Rye Chamber of Commerce request for amendment of the Farmers Market Agreement to extend the operating season by two additional weeks

Mayor Sack asked the City Manager to look into the reason why the Chamber of Commerce is allowed the use of a City parking lot for free.

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

RESOLVED that the City Council of the City of Rye hereby grants the request of the Rye Chamber of Commerce for an amendment to the Farmers Market Agreement to extend the operating season by two additional weeks.

15. Three appointments to the Rye Golf Club Commission for a three-year term expiring January 1, 2018, and the designation of one member to the Rye Golf Club Nominating Committee

Councilman McCartney made a motion, seconded by Mayor Sack and unanimously carried, to approve the appointments of Charlie Davies, Bob DiMaggio and Pat Geoghegan to the Rye Golf Club Commission for three year terms expiring on January 1, 2018 and designating Terrence Caffrey to the Rye Golf Club Nominating Committee for 2015.

16. Resolution to grant permission to the Rye Free Reading Room to hold a free community event on the Village Green on Sunday, May 3, 2015 from 10 a.m. to at 1 p.m.

Councilman Mecca 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 Rye Free Reading Room for use of the Village Green and City Hall parking lot on Sunday, May 3, 2015 from 8:00 a.m. to 5:00 p.m. for the Family Science Fun Fair event.

17. Miscellaneous Communications and Reports

There was nothing reported under this Agenda item.

18. New Business

Mayor Sack asked Corporation Counsel Wilson about an email he had received from Timothy Chittenden regarding FOIL appeals. Ms. Wilson said that the appeals were not ripe at this time. The City had asked for additional time to respond to the 15 requests that all went to the same department. The documents are being gathered by the department.

Councilwoman Brett said that the Town of Rye raised a legal liability concern about the passage of the dog law and asked Corporation Counsel Wilson to provide the case law on liability to the Town's attorney in order to persuade them that there is no increased liability. Ms. Brett also provided an update on the New York Rising, a community driven planning process to help communities affected by recent storms in order to be better prepared for future storms. Rye has been allocated to receive \$3 million in Round Two of the funding and there is a team of consultants helping the City who meet regularly to go through the process required to recommend projects. The Planning Committee has developed a Vision Statement, identified community assets and needs and opportunities to develop overall strategies and they are in the process of developing a list of potential projects. She thanked committee Co-Chairs Bernie Altoff and Holly Kennedy and committee members: Mack Cunningham, Frank Gadalata, Rex Gedney, Sara Goddard, Gregg Howells, Josh Nathan, Richard Runes, Tracey Stora and Birgitte Townley.

19. Adjournment

There being no further business to discuss Councilwoman Brett made a motion, seconded by Councilman McCartney and unanimously carried, to adjourn the meeting at 10:45 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk