

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on November 19, 2014 at 8:00 P.M.

PRESENT:

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

ABSENT: RICHARD MECCA, Councilmember

The meeting began at 8:10 p.m. at the conclusion of a Budget Workshop.

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 events that may be of interest to the public. Mayor Sack noted the retirements of Alice Evangelista, who has provided administrative support to the Police Department for 27 years.

4. Draft unapproved minutes of the regular meeting of the City Council held November 5, 2014 and the Budget Workshop held November 12, 2014

Councilman McCartney made a motion, seconded by Councilwoman Killian and unanimously carried, to approve the minutes of the regular meeting of the City Council held on November 5, 2014, as amended.

Councilman McCartney made a motion, seconded by Councilwoman Killian and unanimously carried, to approve the minutes of the budget workshop of the City Council held on November 12, 2014.

5. Issues Update/Old Business.

There was nothing discussed under this topic.

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 said that the Council has been working on this proposal for almost a year and commended the subcommittee comprised of Councilmembers Bucci, McCartney and Slack for their hard work. City Planner Miller summarized the process the application has gone through since it was first submitted in December 2013. The Planning Commission provided the Council with an advisory recommendation and the Council has diligently reviewed the environmental issues and the conditioned negative declaration reflects what they have heard during the public hearing process. Members of the Council expressed their appreciation to the public for their participation in the public hearing process saying it had helped them frame the issues and spurred them to do a detailed and specific job, which included engaging an environmental consultant whose recommendations they have adopted, as well as addressing concerns related to traffic, height and density.

Public Comment:

*Greg Wilson* spoke in opposition to the proposed zoning change. He said that the change will not be good for the residents and taxpayers of Rye; there is no evidence of remediation on the site; and he believes that school aged children will live in the development. It was pointed out that many of his concerns have been addressed in the draft Resolutions and that the County would be paying for off-site improvements that will benefit the taxpayers. *Walter Suarack* asked the Council to add conditions that address construction related issues to the Resolution. City Planner Miller said that the applicant will be required to retain an environmental consultant as part of the site plan review process before the Planning Commission in order to assist them in confirming that the construction is consistent with the requirements in the Resolution. *Joseph Murphy* asked if any preference could be given to Rye Seniors.

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

7. Resolution adopting a conditional negative declaration of environmental significance pursuant to the New York State Environmental Quality Review Act for the zoning petition submitted by Lazz Development/Pawling Holdings to rezone the property at 150 North Street to a RA-5 Senior Citizen Apartment District

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

**RESOLUTION ADOPTING A CONDITIONAL NEGATIVE DECLARATION FOR THE ZONING PETITION SUBMITTED BY LAZZ DEVELOPMENT/PAWLING HOLDINGS**

**TO REZONE PROPERTY AT 150 NORTH STREET TO RA-5 SENIOR CITIZEN APARTMENT DISTRICT**

WHEREAS, Lazz Development/Pawling Holdings (hereinafter “Applicant”) petitioned the City Council to rezone property located at 150 North Street (the “Property”) to the RA-5 Senior Citizen Apartment district (the “Zoning Petition”); and

WHEREAS, the City Council reviewed the proposed Zoning Petition and referred same to the Rye Planning Commission pursuant to the Rye City Code; and

WHEREAS, the City Council declared its intent to be Lead Agency and circulated the Zoning Petition to other involved and interested agencies; and

WHEREAS, no other agency objected to the City Council declaring its intent to be the Lead Agency; and

WHEREAS, the proposed RA-5 zone permits the Property to be used for affordable senior housing units; and

WHEREAS, the proposed RA-5 zone is consistent with the City’s Master Plan and has been vetted by the City as a potential site for affordable housing for decades; and

WHEREAS, a duly noticed public hearing was opened in February 2014 and all members of the public wishing to be heard were given the opportunity to be heard; and

WHEREAS, the public hearing was continued from month to month while providing the public the opportunity to be heard; and

WHEREAS, the City Council retained experts to address potential environmental concerns including, but not limited to, water quality and wetlands; and

WHEREAS, the City Council had Tenen Environmental present their findings regarding water quality during a public hearing and allowed the public to ask questions regarding same; and

WHEREAS, the City Council reviewed the Applicant’s wetland report as well as its own expert’s report addressing impacts to the wetlands; and

WHEREAS, the public hearing was closed on November 19, 2014; and

WHEREAS, the City Council reviewed the Short Environmental Assessment Form at its November 19, 2014 City Council meeting and finds that a Conditional Negative Declaration is appropriate given the nature of the proposed mitigation measures; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council considered the criteria listed in Section 617.7(c) of the State Environmental Quality Review Act and the complete

record, and finds that the proposed conditions made part of the attached Conditional Negative Declaration will mitigate any significant adverse environmental impacts

AND, BE IT FURTHER RESOLVED, that the Rye City Council hereby adopts the attached Conditional Negative Declaration and any subsequent changes must be approved by the City Council

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

8. Resolution adopting a Local Law to amend the “Zoning Map of the City for Rye, New York” to Change the Zoning Designation of a Property Known on the City of Rye Tax Map as Section 146.10, Block 1, Lot 66 from B-6, General Business, District and B-1, Neighborhood Business, District to RA-5, Senior Citizens Apartment, District

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

**RESOLUTION ADOPTING LOCAL LAW # 9 OF 2014**

WHEREAS, Lazz Development/Pawling Holdings (hereinafter “Applicant”) petitioned the City Council to rezone property located at 150 North Street (the “Property”) to the RA-5 Senior Citizen Apartment district (the “Zoning Petition”); and

WHEREAS, the City Council reviewed the proposed Zoning Petition, declared its intent to be Lead Agency pursuant to the State Environmental Quality Review Act (“SEQRA”) and referred same to the Rye Planning Commission pursuant to the Rye City Code; and

WHEREAS, the City Council circulated the Zoning Petition to other Involved and Interested agencies; and

WHEREAS, no other agency objected to the City Council declaring its intent to be the Lead Agency; and

WHEREAS, the proposed RA-5 zone permits the Property to be used for affordable senior housing units; and

WHEREAS, the proposed RA-5 zone is consistent with the City’s Master Plan and has been vetted by the City as a potential site for affordable housing for decades; and

WHEREAS, the Zoning Petition furthers the intent of the City Council to provide affordable housing within the City of Rye; and

WHEREAS, the Planning Commission provided a memo to the City Council with a positive recommendation regarding the proposed zoning change and advised the City Council to take a closer look at some of the identified areas of concern; and

WHEREAS, some members of the City Council conducted a site walk of the Property with the Applicant; and

WHEREAS, a duly noticed public hearing was opened in February 2014 and all members of the public wishing to be heard were given the opportunity to be heard; and

WHEREAS, the public hearing was continued from month to month while providing the public the opportunity to be heard; and

WHEREAS, the City Council retained experts to address potential environmental concerns including, but not limited to, water quality and wetlands; and

WHEREAS, the public hearing was closed on November 19, 2014; and

WHEREAS, the City Council adopted a Conditional Negative Declaration pursuant to the New York State Environmental Quality Review Act (SEQRA); and

NOW, THEREFORE, BE IT RESOLVED, that the City Council finds that the Zoning Petition is consistent with the City's Master Plan and furthers the City's intent to provide a wide range of housing stock; and

AND, BE IT FURTHER RESOLVED, that the Rye City Council hereby approves Local Law # 9 of 2014, subject to the following condition(s):

1. Each condition of the Conditional Negative Declaration is incorporated herein and each and every condition is made an explicit condition of this approval.

AND, BE IT FURTHER RESOLVED, that the local law shall have an effective date of December 15, 2014.

**CITY OF RYE  
LOCAL LAW NO. 9 2014**

**A Local Law to Amend the "Zoning Map of the City of Rye, New York" to Change the Zoning Designation of a Property Known on the City of Rye Tax Map as Section 146.10, Block 1, Lot 66 from B-6, *General Business*, District and B-1, *Neighborhood Business*, District to RA-5, *Senior Citizens Apartment*, District.**

Be it enacted by the City Council of the City of Rye as follows:



10. Public Hearing to add a proposed Local Law amending the Code of the City of Rye by creating a new chapter, Chapter 176, "Energy Conservation", to establish a Sustainable Energy Loan Program in the City of Rye in accordance with Article 5-L of the General Municipal Law

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

Corporation Counsel Wilson said that she had spoken with the attorney for the Energy Improvement Corporation (EIC), who indicated that the intent language in the draft local law must remain consistent with what is in the model local law. Alyssa Roth, Director of EIC Membership at Energize NY added that the language must remain the same so that all member contracts are the same. Ms. Roth summarized the Energize NY Program, a non-profit local development corporation that runs outreach programs for energy efficiency. She outlined the reasons for the creation of the Energize NY finance program and the benefits to applicants who wish to make effective energy efficiency upgrades to their buildings; the requirements for filing an application and receiving financing; the mechanism for repayment of loans through property taxes; benefits to the community; and, the operation of the Municipal Loss Reserve Fund. Members of the Council raised questions regarding the ability to restrict those applying for financing to not-for-profits or a specific class of properties; problems with credit risk; the assumption of what the saving might be; the method of collecting on defaults; and, a possible deadline for adopting the local law. Ms. Roth was asked to provide documents containing exclusions that have been adopted by other New York communities.

Public Comment:

*Judy Martin and Carol Craig* representing Wainwright House spoke about what has been done by that organization to identify energy saving changes that could be made to their buildings and the proposed cost savings. They said that passing the proposed local law would benefit many organizations in Rye allowing them to cut energy consumption and improve energy efficiency. *Carolyn Cunningham*, Chair of the Conservation Commission/Advisory Council (CC/AC) said that the proposed local law has the unanimous support of both the CC/AC and the Sustainability Committee. She said the Council was wise to consider the risks but many entities in the City would benefit if it was adopted.

Mayor Sack made a motion, seconded by Councilwoman Brett, and unanimously carried to adjourn the public hearing until the December 3, 2014 meeting.

11. Consideration to set a Public Hearing for December 3, 2014 to amend local law Chapter 191, "Vehicles and Traffic", of the Rye City Code by amending Section §191-20, "Parking time limited", Subsection (E) "Fifteen-minute limit" to designate three parking spaces on the west side of First Street as fifteen minute parking spaces.

City Manager Culross said that this request came before the Traffic and Pedestrian Safety Committee and they recommend the proposed change in the law.

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

**WHEREAS**, the Council wishes to consider amending Chapter 191, "Vehicles and Traffic" of the Code of the City of Rye by amending §191-20 (E); 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 December 3, 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**

**Notice of Public Hearing on a proposed local law to amend Chapter 191, Vehicles & Traffic of the Rye City Code by amending §191-20, "Parking time limited" Subsection (E) "Fifteen-minute limit" to designate three parking spaces on the west side of First Street as fifteen minute parking spaces**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 3rd day of December 2014 at 7.30 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal to amend §191-20, "Parking time limited" Subsection (E) "Fifteen-minute limit" to designate three parking spaces on the west side of First Street as fifteen minute parking spaces.

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

Dawn F. Nodarse  
City Clerk

Dated: November 26, 2014

12. Consideration of request from the Ceres Garden Club of Rye to install a Blue Star Memorial By-Way Marker in the City of Rye

Ann Moller, representing the Ceres Garden Club (the Club), made a presentation regarding the Blue Star Memorial Program that honors service men and women who have, are and will be serving in the military. The Club would like to install a monument in the City and will raise the funds to purchase it. The suggested location is the “parkette” at the corner of Central Avenue and Boston Post Road. Mayor Sack said the Council views the request positively and suggested that the club speak with the Veterans organization, the Recreation Commission (to discuss a possible location) and the Landmarks Committee and come back to the Council for further discussion.

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

There were no residents who wished to speak under this Agenda item.

14. Appeal of denial of FOIL requests by Timothy Chittenden

Corporation Counsel Wilson spoke about information she had provided to the Council about options when a diligent search for records has been performed and no records have been discovered, including an opinion from Robert Freeman to Mr. Chittenden regarding his option for certification in such a situation. Ms. Wilson recommended denying the appeals. Councilman Slack suggested including all the appeals of requests where no documents were located and there were no exclusions or redactions into one Resolution.

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

**RESOLVED** that the City Council of the City of Rye hereby denies the following FOIL Appeals submitted by Timothy Chittenden: (Appeal #1) “Copy of Robbie Falk’s High School diploma or a copy of a GED”; (Appeals #3 through 6 and 8 through 9) “All requests for secondary employment submitted by Robbie Falk from 1981-1986, 1987-1991, 1992-1996, 1997-2001, 2007-2011, 2012-2014; (Appeals # 10 through 16) “All reports submitted by Robby Falk for all of his off duty and one duty firearm discharges from 1981-1986, 1987-1991, 1992-1996, 1997-2001, 2002-2006, 2007-2011, 2012-2014.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

Corporation Counsel Wilson said that cell phone records with the last four digits of the number redacted were provided to Mr. Chittenden for the period of time that he had not already received. The City only receives the number of text messages sent and received but not the content or the number to which it was sent or received. Email records did turn up in the search but they were denied as either inter-agency communications or attorney/client privileged communications. There was a discussion among the Council regarding the reasons for redacting or not redacting the phone numbers of calls made to and from a police officer and whether the City has the burden of reviewing all calls to determine if they are exempt under FOIL. A suggestion was made that the City could redact everything but the calls between Lt. Falk and Corporation Counsel Wilson and then review the remaining records to determine which additional calls could be redacted.

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

**RESOLVED** that the City Council of the City of Rye hereby denies the FOIL Appeal submitted by Timothy Chittenden for “All communications between Robby Falk and Kristen Wilson including but not limited to all text messages, all phone calls, all phone calls and test messages made with any City of Rye provided cell phone, all e-mails and all other communications since 1/1/2009”.

ROLL CALL:

AYES: Mayor Sack, Councilmembers Bucci, Killian, and McCartney  
NAYS: Councilmembers Brett and Slack  
ABSENT: Councilman Mecca

The Resolution was adopted by a 4-2 vote.

Corporation Counsel Wilson said that unredacted records responsive to the request were sent to Mr. Chittenden, who believes that additional records exist.

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

**RESOLVED** that the City Council of the City of Rye hereby denies the FOIL Appeal submitted by Timothy Chittenden for “All requests for secondary employment submitted by Robbie Falk from 2002-2006”.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

15. Miscellaneous Communications and Reports

There was nothing discussed under this Agenda item.

16. New Business

There was nothing discussed under this Agenda item.

17. Adjournment

There being no further business to discuss Mayor Sack made a motion, seconded by Councilwoman Brett and unanimously carried, to adjourn into executive session to discuss personnel and not return to the regular meeting at 10:40 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk