

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on January 14, 2015 at 7:30 P.M.

PRESENT:

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

ABSENT:     TERRENCE McCARTNEY, Councilman

The Council convened at 7:00 p.m. Councilwoman Brett made a motion, seconded by Councilwoman Killian and unanimously carried to immediately move into executive session to discuss collective bargaining. Councilman Mecca made a motion, seconded by Councilwoman Brett and unanimously carried, to adjourn the executive session at 7:26 p.m. The regular meeting began at 7:30 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.     Appointment of two City Council Members for terms expiring January 1, 2016

Councilman Slack was sworn in by Judge Robert Cypher and Councilman Mecca was sworn in by Judge Joseph Latwin.

4.             The State of the City Address by the Mayor

“In one respect, 2015 is beginning just like 2014. For the second year in a row, this traditional State of the City address by the Mayor has been upstaged – and rightly so – by the swearing-in of Councilmembers Richard Mecca and Richard Slack.

“But in another way, the start of this year is actually much different than the start of last year.

“This time, we, the members of this Rye City Council, are not just offering the promise of restoring trust and confidence in our City government. After a solid year of hard work, perseverance and a healthy dose of humility, it can be fairly noted that we have delivered on that promise.

“Consequently, the state of our City is stronger now than it has been in recent memory. As we remain united, and as we continue to advance the interests of Rye in a straightforward and business-like manner, the state of our City will only get even stronger.

“The members of this Council – which also include Laura Brett, Julie Killian, Terry McCartney and Kirstin Bucci – have worked together and with others to get the City back on track. And we have done that by respecting all points of view, working through differences, and building consensus. This fresh approach has contributed to better solutions and stronger outcomes.

“So in the span of just 12 months, Rye has racked up a string of notable accomplishments.

“First and foremost, we ended our relationship with a City manager who by his actions and inactions had unfortunately contributed to the public’s waning faith in the way our City was run.

“We replaced that person with an upstanding and solid City manager, an old friend who helped steady the ship and navigate us through turbulent waters.

“And regardless of who happens to be serving as City manager, we strengthened our oversight tools, giving all Council members for the first time the right to request, receive and inspect the books and records of the City.

“We enhanced our checks and balances with respect to the appointment of one of the most important and high-profile City employees, by obliging the City manager to offer his or her choice for Police commissioner to the Council for our advice and consent.

“We brought back the process of requiring Council approval of the City’s outside auditor, and we took that opportunity to shake things up and retain a new, experienced and well-regarded auditing firm. Thank you to City Comptroller Joe Fazzino and the Finance Department team for their hard work in making that happen.

“We opened a brand new chapter at Rye Golf Club, by hiring a new caterer and a new club manager, both with essential input from golf club stakeholders. Thank you to GM Jim Buonaiuto, Mack Cunningham and all the club commissioners and

volunteers for keeping the bottom line in the black, and drastically improving the overall member experience.

“Regarding Rye Playland, we took proactive steps to ensure that Rye had a role in the decision- making in connection with the County’s proposed development plans. Thank you to Steve Vasko, and all the advisory committee members and local citizens, who helped keep this issue in the forefront.

“We crafted creative legislation to address a long-simmering conflict at Rye Town Park, and officially allowed dogs off leash in a designated area before 9 a.m., while providing for stricter enforcement at other times of the day. Thank you to Supervisor Joe Carvin, Bishop Nowotnik, and all of our friends in the Town of Rye for being such good partners. And thanks to City Clerk Dawn Nodarse for helping to implement the registration component to this new law.

“We set a new tone in our labor negotiations, and settled long-standing talks with our police and public works unions by entering into agreements which were not only fair and equitable to City workers, but which also contained unprecedented provisions to protect the long-term interests of Rye taxpayers. Our greatest City asset is our City staff, and we are grateful for their fine service.

“We applied vigorous due diligence to the senior affordable housing proposal at the intersection of Theo. Fremd and North Street, which resulted in a thorough review of environmental and other impacts, and which – after over two decades of talk – finally brought the tangible result of a new zoning district to the site. Thank you to City Planner Christian Miller and the Planning Commission for helping us to see that through.

“We instituted pilot projects on the Milton Point “Loop” with regard to a reduced speed limit of 25 miles per hour, and the removal of dangerous rocks in the City right-of-way. We will learn from these pilots and we will expand them if they prove successful. Thank you to Brian Dempsey and all the members of the Traffic and Pedestrian Safety committee, as well as interested citizens, for supplying us with very useful information on this.

“We passed a new law which was geared towards preserving the essential character of our City by trying to save the Smoke Shop. With its iconic green façade and with its welcoming atmosphere as a central meeting place, Peggy and Tony’s quintessential retail store is as much connected to our identity as any other place in Rye. I sincerely hope that the landlord becomes our partner in this effort and takes advantage of this unique opportunity.

“These are just the highlights. There are many other accomplishments, both large and small, which have made a positive impact – from reversing the gravelling-over of the Central Avenue parkette, to approving new retail-friendly 15-minute parking spots at various places around town.

“Perhaps the achievement for which I personally received the most positive feedback was the re- surfacing of the train station roadway which runs through the MTA-owned parking plaza.

“What a difference a year makes.

“But we are not content to rest on our laurels. Working together, this Council aims to keep the momentum, to resolve unfinished business, and to take on newer and bigger challenges.

“In 2015, we will for sure recruit our next City manager, the person who will finally succeed Mr. Culross in the true Rye tradition of honest and effective leadership. We are glad to have assistant manager Eleanor Militana to provide continuity during the transition.

“Regardless of whom the Council hires as City manager, we should also continue to strengthen our ability to perform our oversight role, by allowing all Council members to speak directly with City department heads. Currently, this basic interaction is remarkably not allowed to take place, based on the way the Charter appears to be written.

“However, we ought to be able to consult with them, not for the reason of directing them in the performance of their duties, which should remain solely the function of the City manager, but simply for the purposes of gaining information. Ironically, any ordinary citizen can speak with a department head, and this happens on a regular basis.

“Let’s not forget that our inability to do this prevented those of us who were suspicious earlier on about the Rye Golf Club situation from conducting an inquiry at the source, once our initial requests for information were ignored. If we had been able to do this, the City potentially could have avoided hundreds of thousands of dollars in investigative fees, not to mention immeasurable grief.

“We have seen the peril which may befall our City when the Council does not fully embrace its necessary and proper oversight responsibilities. We should heed the lessons of the recent past and make this sensible change.

“We are thankful to Commissioner Bill Pease for his steady hand, but we ought to start thinking about our need to permanently fill the top leadership position at the Police department. However, this will have to wait until a new City manager is in place, so that he or she can initiate and guide that process.

“We ought to review the organization and staffing needs at the Fire department, which we began to address in this year’s budget, but which we must consider in much greater detail. As part of this effort, we should apply additional effort and resources towards recruiting, training and retaining volunteer firefighters. This public service has a rich tradition dating back many generations in Rye, and I hope and believe that it will continue to be a tremendous source of community pride.

“Importantly, we will need all parties involved – professionals and volunteers alike – to put aside historic differences for the greater good of the entire City. I am confident that everyone will rise to the occasion.

“If possible, we ought to apply the model of success we developed in negotiating other collective bargaining agreements, to our talks with the unions representing our firefighters and clerical workers.

“We ought to continue to press our insurance claim with regard to the fraud at Rye Golf Club, to get the best recovery possible for the City, and we should also closely monitor the litigation regarding the Whitby wait staff gratuities.

“Unfortunately, there’s a raft of other litigation matters which we need to stay on top of, including the Beaver Swamp Brook and the Tiki Bar matters. We will continue to rely on the good advice of City attorney Kristen Wilson as we move forward. Thanks also to City Assessor Noreen Whitty for her important role in our tax cert litigation.

“We ought to be prepared to reaffirm our rights if and when the County of Westchester comes forward with a new plan, or a variation on an old plan, for the revitalization of Rye Playland. We want to be partners with the County whenever possible, and we invite the County to work with us.

“We ought to continue to pursue flood mitigation strategies, including the re-calibration of the Bowman Avenue sluice gate, and the options developed by the Governor’s “New York Rising” task force, among which is the possibility of up-stream retention on the State University of New York campus in Purchase. Thanks to Holly Kennedy and Bernie Althoff and all the citizen volunteers for applying themselves to this ever present issue.

“We ought to continue the conversation which we started about rock chipping and other building issues, and institute better regulations, while always striving to strike the right balance between the desires of those who want to limit new construction, with those who wish to preserve property rights. We appreciate the input of our concerned citizens, and we will continue to turn to Building Inspector Maureen Eckman for her expert technical advice.

“We ought to consider taking steps to revise our City of Rye Development Plan – the so-called “Master Plan” – which has not been updated in three decades. I have here an original edition from 1985. Our good friend John Carolin served as the capable Chairman of the Planning Commission at that time. Today, we need the same type of equanimity, nobility and foresight exemplified by Mr. Carolin thirty years ago. Let’s make the needed investment and get the ball rolling to plan for our future.

“We should begin to implement the infrastructure projects which were approved in 2012, but which were delayed because we came to realize that the projects were not sufficiently planned out at the time when they were submitted to referendum. As

always, we could not embark on these projects without the solid leadership of City Engineer Ryan Coyne and the DPW staff.

“We also have no shortage of new projects to undertake, including potential reconfiguration at Disbrow Park involving the Little League field to provide for safer routing of traffic. Recreation Superintendant Sally Rogol, together with Bart Dinardo and the entire Rec commission, will as always play an important part in getting this done right.

“We ought to address the complaints about the deer population by our neighbors in the Greenhaven and Manursing Island areas especially. To that end, we will enlist the advice and input of the State and County, as well as our neighboring communities, and Rye will convene and host a deer management summit in the first quarter of the year.

“Having hit the re-set button on the long-standing Hen Island controversy, and having invited all interested parties to submit material and join a constructive dialogue, and having even travelled by boat out into Milton Harbor for a tour, we need to digest this disparate and complex information and ultimately weigh in with our perspective.

“With regard to the Rye City Schools, we ought to continue the improved communication which we have tried to cultivate. Although we are separate organizations with discrete roles, there is often much overlap in our missions, especially since we predominantly serve the same constituents. These intentions would also hold true for the Rye Neck schools, although on a much smaller scale. But thank you to Rye School Board President Laura Slack and her colleagues for stepping up and being our close partners.

“In particular, we ought to continue the direction of our recent discussion over the location of our public access cable TV studio. There are distinct synergies that exist in our respective efforts to inspire young minds, as they pursue careers and other adventures. Let’s work together on a joint venture for the benefit of our shared love – our children.

“And all of these initiatives, of course, must be considered in the context of providing the high level of services which the residents of Rye have come to desire and expect, while also keeping taxes as manageable as possible.

“This is not an exhaustive list; there are many more existing issues which require our attention, with many more sprouting up every day. We certainly have enough on our plate. The truth is that we relish these challenges. But we cannot take them on without your help, for which we humbly ask.

“A couple years ago, I clipped an article from The Wall Street Journal which reported on the Berkshire Hathaway annual shareholders’ meeting. This article struck a chord with me, and has remained on a corner of my desk. It indicated that Berkshire’s legendary chairman Warren Buffet had invited a prominent short-seller –

that is, someone who had placed a bet against Berkshire stock – to participate in a panel posing questions to him.

“The Journal concluded that: “Perhaps the most important thing you can do when everything seems to be going right in your portfolio is to listen to somebody who insists you are wrong.”

“So we need and want your support. But we also accept and learn from and are shaped by your criticism. We seek out public engagement no matter its source or motives as an essential part of the good government to which we all, I believe, aspire.

“More recently, a couple weeks ago, another article in the Journal caught my eye. This one asked successful people about the best and worst investments they ever made. Former Federal Reserve chairman Paul Volcker put it succinctly: “The worst financial investment I ever made was spending so much time in government. The most satisfying personal investment I ever made was spending so much time in government, frustrating as it could be.”

“Another year older, and another year wiser, I think I know what he means. But I don’t think that I would have it any other way.

“We ended 2014 on a high note with the celebration of the 50<sup>th</sup> anniversary of the dedication of City Hall. And as we start the next half-century in this building, we can have optimism that our best days are still ahead of us.

“Thank you, God Bless you and God Bless the City of Rye.”

5. General Announcements by the Council

Mayor Sack noted the deaths of Warren Keegan, Orley D’Angelo and Irv Hermann and asked for a moment of silence. Reports were also made regarding other events and activities in the community.

5A. Approval of the election of one new member to the Rye Fire Department

Mayor Sack made a motion, unanimously approved by the Council, to adopt the following Resolution:

**RESOLVED**, that the City Council of the City of Rye hereby approves the election of Rex Gedney to the Fire Police Patrol Company as approved by the Board of Fire Wardens at their January meeting.

6. Draft unapproved minutes of the Regular Meeting of the City Council held December 17, 2014

Councilwoman Brett made a motion, seconded by Councilwoman Killian and unanimously carried, to approve the minutes of the regular meeting of the City Council held on December 17, 2014.

7. Issues Update/Old Business

Rock Chipping Group – Councilman Slack reported that the group has met several times and is well into the process. They have received feedback from residents; spoken with a sound expert; reviewed Code provisions from other municipalities and spoken with City Staff.

New York Rising Committee – Councilwoman Brett reported that the group had held its final public engagement session to identify projects for the \$3 million grant. The four top tier projects are: Modification of the Sluice Gate; Building a Retention Pond at SUNY Purchase; Expanding the Upper Pond at the Bowman Avenue Dam; and Improving Milton Road Drainage.\* The decision on what project will be funded will be made by the Governor’s Office.  
\* Fourth project information amended at 1-28-15 meeting.

Blue Star Memorial – Councilwoman Brett reported that the Ceres Garden Club has spoken with the American Legion regarding where to locate the proposed memorial. They have come up with four proposed locations and would like guidance from the City as to the best location.

Off-Leash Dog Law – Councilwoman Brett reported that the law allowing owners to have their dogs off-leash in Rye Town Park between the hours of 6:00 a.m. and 9:00 a.m. is in effect. The City is working on implementing the registration process.

8. Appointment of the 2015 Deputy Mayor by the Mayor

Mayor Sack appointed Councilwoman Brett as Deputy Mayor for a one-year term commencing on January 1, 2015, to serve as Acting Mayor in the Mayor’s absence.

9. Appointment of a Council Member as Trustee of the Police Pension Fund, by the Mayor with Council approval, for a one-year term

Mayor Sack appointed Councilman McCartney as Trustee of the Police Pension Fund for a one-year term commencing January 1, 2015.

10. Designation of the City Council’s Audit Committee by the Mayor

Mayor Sack appointed Councilwoman Killian and Councilwoman Bucci, to the City Council's Audit Committee, which also includes himself, for a one-year term commencing January 1, 2015.

11. Designation of the City Council Liaisons by the Mayor

This agenda item was deferred.

12. Designation of official City newspaper

Mayor Sack made a motion, and unanimously approved by the Council, to adopt the following Resolution:

**RESOLVED**, that the Journal News is hereby designated as the official City newspaper for purposes of publishing legal notices.

13. Continuation of 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 Mecca and unanimously carried, to adjourn the public hearing until the January 28, 2015 meeting.

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

There were no residents wishing to speak.

15. Authorization for City Manager to enter into an Intermunicipal Agreement with the County of Westchester for an Employee Assistance Program

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 authorizes the City Manager to enter into an Intermunicipal Agreement with the County of Westchester for an Employee Assistance Program.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

16. Designation of the amounts of faithful performance bonds:

Councilwoman Brett made a motion, seconded by Councilman Mecca to recommend the following amounts of faithful performance bonds:

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

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

17. Appointments to Boards and Commissions, by the Mayor with Council approval

- A) Three appointments to the Board of Appeals for a three-year term.
- B) One appointment to the Board of Architectural Review for a three-year term.
- C) One appointment to the Board of Ethics for a three-year term.
- D) Three appointments to the Conservation Commission/Advisory Council for a three-year term.
- E) Three appointments to the Finance Committee for a three-year term.
- F) Two appointments to the Flood Advisory Committee for a three-year term.
- G) Four appointments to the Landmarks Advisory Committee for a three-year term.
- H) Two appointments to the Planning Commission for a three-year term.
- I) Three appointments to the Recreation Commission for a three-year term.
- J) Four appointments to the Rye Cable and Communications Committee for a three-year term.
- K) One appointment to the Rye Playland Advisory Committee for a three-year term.
- L) Three appointments to the Rye Town Park Advisory Committee for a three-year term.
- M) Two appointments to the Traffic & Pedestrian Safety Committee for a three-year term.

This agenda item was deferred.

18. Appeal of denial of FOIL request by Leon Sculti

Councilwoman Brett noted that at the last Council Meeting there was extensive discussion regarding producing the Breen Report requested by Mr. Sculti. Since then they have received information and legal analysis over the issues. Ms. Brett said she believes the documents are privileged or subject to exemptions under F.O.I.L. including the inter-agency exemption. They are also subject to the attorney/client privilege and attorney work product privilege. They have been shared with the City's insurer under a common interest privilege. She said she believes the documents must be protected in order to protect the City's interest in pursuing potential litigation. Ms. Brett said it should be explored if there was a way to share the documents with the Golf Club Commission without waiving the privilege.

Leon Sculti said he believed that privilege was waived when the City posted the preliminary report on the website. There was a discussion between Mayor Sack and Mr. Sculti regarding whether privilege was waived. Mr. Sack noted that Breen & Associates had been retained by attorneys Brune & Richard in order to preserve the attorney/client privilege.

Councilman Slack said he did not entirely agree with other Council members. He explained the difference between attorney/client privilege and attorney work product privilege. He said that providing the City's insurer with the report was likely a waiver of the attorney/client privilege but there was a reasonable basis to conclude that the disclosure was not a waiver of the attorney work product privilege. He added that he did not agree that the document qualified for the inter-agency exemption under F.O.I.L.

Councilwoman Brett 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 appeal of the response to a F.O.I.L. request submitted by Leon Sculti seeking "The forensic accounting report prepared by Breen & Associates for Rye Golf Club, in relation to the massive amount of fraud committed by city employee Scott Yandrasevich."

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

18A. Appeal of denial of FOIL request by Timothy Chittenden

Corporation Counsel Wilson said that the original FOIL request was for all information on a pedestrian and vehicle accident at Sonn Drive. Mr. Chittenden originally appealed that the documents provided did not contain the County accident reconstruction report. He was subsequently provided the County report and is currently appealing asking for any photographs and a mechanical inspection report. The City is not in possession of the mechanical inspection report. It appears there are photographs which are being downloaded from a City camera and they will be provided to Mr. Chittenden.

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 grants the appeal to the response to the FOIL request submitted by Timothy Chittenden for “All records of the Motor Vehicle Accident that occurred on the night of May 2, 2014, on Boston Post Road at or near the intersection with Sonn Drive including but not limited to all incident reports, all accident reports, photos and diagrams from all agencies, all cad dispatch reports, all reports and cad dispatch reports for all other involved agencies dispatched and all supplementary reports” and will provide photographs in the possession of the City.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

19. New Business

There was nothing discussed under this agenda item.

20. Adjournment

There being no further business to discuss Councilwoman Brett made a motion, seconded by Councilman Mecca and unanimously carried, to adjourn the meeting at 9:25 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk