

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on February 11, 2015 at 7:30 P.M.

PRESENT:

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

ABSENT: RICHARD MECCA, Councilman

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

Mayor Sack announced that former Mayor Warren Ross had passed away and called for a moment of silence.

The Deer Summit originally announced for February 26th has been moved to February 25th prior to the regular Council meeting. Announcements were also made regarding other meetings, events and topics which may be of interest to residents.

Police Commissioner William Pease introduced two new members of the Police Department: Officers Brett Schlosser and Gabriel Caputo. Both officers made brief remarks.

4. Draft unapproved minutes of the regular meeting of the City Council held January 28, 2015

Councilwoman Brett made a motion, seconded by Councilman McCartney and unanimously carried to approve the minutes of the regular meeting of the City Council held on January 28, 2015, as amended.

5. Issues Update/Old Business

Snow – There was a discussion of conditions of walkways as a result of the recent snow and cold weather. City Manager Culross said the City is attempting to assist in opening intersections for school crossings and walkways to schools, but the City is not clearing sidewalks that are the responsibility of the adjacent homeowners. Violation notices will be issued to those who have not cleared their walks. It was suggested that people call DPW if they have complaints about specific areas the City is responsible for that have not been cleared.

Street Lights on Playland Parkway and Playland Access Road – Mayor Sack reported that there is some disagreement as to whether the County or State is responsible for replacing the street lights that are out in the area, but he has asked the County to take care of it. Representatives from the County will be coming to look into the problem.

Dogs in Rye Town Park – Councilwoman Brett announced that people can now come into the Clerk’s Office to obtain a permit to allow their dogs to be off-leash in a certain area of Rye Town Park from 6:00 a.m. to 9:00 a.m.

6. Public Hearing to amend local law Chapter 176 “Energy Conservation” by amending Section §176-4, “Procedures for eligibility” to remove Subsection (D) which set a limit on the total of payments collected by the City

Corporation Counsel Wilson said when the Council originally passed the local law, language had been added that imposed a ceiling of \$50,000 per year but in order to qualify for the program the City’s law must be exactly the same as the State’s model law. The proposed law amends that law to remove the additional language.

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

No one from the public wished to speak on the proposed local law.

Councilwoman Brett made a motion, seconded by Councilman McCartney 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. 2 2015**

**A Local Law to amend Chapter 176, “Energy Conservation”,
by amending §176-4, “Procedures for eligibility”, to remove**

**Subsection (D) which set a limit on the total of payments
collected by the City**

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

Section 1: Chapter 176 Energy Conservation

§ 176-1. Legislative findings; intent and purpose; statutory authority.

- A. It is the policy of both the City of Rye and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The City finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This article establishes a program that will allow the Energy Improvement Corporation (EIC), a local development corporation, acting on behalf of the City, to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this article and fulfilling an important public purpose.
- B. The City of Rye is authorized to implement this Energize NY Benefit Financing Program pursuant to Article 5-L of the New York General Municipal Law.
- C. This article shall be known and may be cited as the "Energize NY Benefit Financing Program Law of the City of Rye."

§ 176-2. Definitions.

For purposes of this article, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

AUTHORITY

The New York State Energy Research and Development authority, as defined by Subdivision 2 of § 1851 of the Public Authorities Law, or its successor.

EIC

The Energy Improvement Corporation, a local development corporation, duly organized under § 1411 of the Not-for-Profit Corporation Law, authorized hereby on behalf of the City of Rye to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this article) and providing for repayment of such funds from monies collected by the City Comptroller as a charge to be levied on the real property and collected in the same manner and same form as the City taxes.

ENERGY AUDIT

A formal evaluation or "assessment" of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the authority, or certified by a certifying entity approved by the authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

ENERGY EFFICIENCY IMPROVEMENT

Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost effective pursuant to criteria established by the authority, not including lighting measures or household appliances that are not permanently fixed to real property.

QUALIFIED PROPERTY OWNER

An owner of residential or commercial real property located within the boundaries of the City of Rye that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this article.

RENEWABLE ENERGY SYSTEM

An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the authority, not including the combustion or pyrolysis of solid waste.

RENEWABLE ENERGY SYSTEM FEASIBILITY STUDY

A written study, conducted by a contractor certified by the authority, or certified by a certifying entity approved by the authority, for the purpose of determining the feasibility of installing a renewable energy system.

§ 176-3. Establishment of program.

- A. An Energize NY Benefit Financing Program is hereby established by the City of Rye, whereby EIC, acting on its behalf, may provide funds to qualified property owners in accordance with the procedures set forth under this article, to finance the acquisition, construction and installation of renewable energy systems and energy efficiency improvements and the verification of the installation of such systems and improvements.
- B. The funds provided shall not exceed the lesser of 10% of the appraised value of the real property where the renewable energy systems and/or energy efficiency improvements will be located, or the actual cost of installing the renewable energy systems and/or energy efficiency improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

§ 176-4. Procedures for eligibility.

- A. Any property owner in the City may submit application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the City Clerk's office.
- B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the City, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in Subsection A of § 176-5 of this article. EIC may also request further information from the property owner where necessary to aid in its determination.
- C. If a positive determination on an application is made by EIC acting on behalf of the City, the property owner shall be deemed a qualified property owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under § 176-6 of this article, provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of energy efficiency improvements and/or renewable energy systems be deemed a qualified property owner.

§ 176-5. Application criteria.

- A. Upon the submission of an application, EIC, acting on behalf of the City, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:
 - (1) The proposed energy efficiency improvements and/or renewable energy systems are determined to be cost effective by the authority;
 - (2) The proposed energy efficiency improvements and/or renewable energy systems will generate an estimated annual cost savings greater than the annual charge payments;
 - (3) Sufficient funds are available to provide to the property owner;
 - (4) The property owner is current in payments on any existing mortgage;
 - (5) The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and
 - (6) Such additional criteria, not inconsistent with the criteria set forth above, as the City, or EIC acting on its behalf, may set from time to time.

§ 176-6. Energize finance agreement.

- A. A qualified property owner may participate in the Energize NY Benefit Financing Program through the execution of an energize finance agreement made by and between the qualified property owner and EIC, acting on the behalf of the City.
- B. Upon execution of the energize finance agreement, the qualified property owner shall be eligible to receive funds from EIC, acting on behalf of the City, for the acquisition, construction, and installation of qualifying renewable energy systems and energy efficiency improvements, provided that the requirements of § 176-7 of this article have been met.
- C. The energize finance agreement shall include the terms and conditions of repayment set forth under § 176-8 of this article.

§ 176-7. Energy audit; renewable energy system feasibility study.

- A. No funds shall be made available for energy efficiency improvements unless determined to be appropriate through an energy audit as defined in § 176-2.
- B. No funds shall be made available for a renewable energy system unless determined to be feasible through a renewable energy system feasibility study as defined in § 176-2.
- C. The cost of such energy audit and/or renewable energy system feasibility study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

§ 176-8. Terms and conditions of repayment.

The energize finance agreement between the qualified property owner and EIC, acting on behalf of the City, shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds paid to the qualified property owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on his or her property tax bill and shall be levied and collected at the same time and in the same manner as City property taxes, provided that such charge shall be separately listed on the tax bill. The City shall make payment to EIC or its designee, in the amount of all such separately listed charges within 30 days of the City property tax due date.
- B. The term of such repayment shall be determined at the time the energize finance agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of the City.

- C. The rate of interest for the charge shall be fixed by EIC, acting on behalf of the City, at the time the energize finance agreement is executed by the property owner and EIC.
- D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

§ 176-9. Verification and report.

- A. EIC shall be responsible for verifying and reporting to the City on the installation and performance of renewable energy systems and energy efficiency improvements financed by such program.
- B. The City shall verify and report on the installation and performance of renewable energy systems and energy efficiency improvements financed by the Energize NY Benefit Financing Program in such form and manner as the authority may establish.

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 and Slack
NAYS: None
ABSENT: Councilman Mecca

The Local Law was adopted by a 6-0 vote.

- 7. Consideration to set a Public Hearing for February 25, 2015 to amend local law Chapter 177 “Taxation”, Article XII, “Exemption for Historic Districts” by amending Section §177-79, “Definitions”, to add a new definition for “Historic District” and amending the definition of “Landmark”

Corporation Counsel Wilson said that the purpose of the local law is to amend Chapter 177 in order to make it consistent with Chapter 117 in connection with the creation of Historic Districts.

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

WHEREAS, the Council wishes to consider amending Chapter 177 “Taxation” of the Code of the City of Rye by amending §177-79 “definitions”, to add a new definition for “Historic District” and amending the definition of “Landmark; 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 February 25, 2015 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

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

**PUBLIC NOTICE
CITY OF RYE**

A Local Law to amend Chapter 177 “Taxation” of the Code of the City of Rye by amending Article XII “Exemption for Historic Districts” §177-79 “Definitions” by adding a new definition for “Historic District” and amending the definition of “Landmark”

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 25th day of February 2015 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which time interested persons will be afforded an opportunity to be heard concerning a proposed local law to amend Chapter 177 “Taxation” of the Code of the City of Rye by amending Article XII “Exemption for Historic Districts” §177-79 “Definitions” by adding a new definition for “Historic District” and amending the definition of “Landmark”.

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

Dawn F. Nodarse
City Clerk
Dated: February 18, 2015

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 for the City of Rye to participate in the Westchester County Consolidated Government Efficiency Plan for the municipalities and special districts within Westchester County

City Manager Culross explained that in order for residents to be eligible for next year's tax freeze credit, the City must qualify by staying within the tax cap and must submit a Government Efficiency Plan that identifies efficiencies or shared services against the 2017, 2018 and 2019 budgets. This can be filed individually by the City or as part of a County plan. The risks associated with meeting the requirements are less by joining the County plan.

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

WHEREAS, the New York State Property Tax Freeze Legislation requires for the 2016 Budget Year that the taxing jurisdiction must maintain a freeze compliant budget for taxpayers to be eligible for a property tax rebate; and

WHEREAS, a local government efficiency plan must be approved by the State Director of Budget by the year 2016, which will save the taxing jurisdiction at least 1% of its 2014 property tax levy; and

WHEREAS, Westchester County is instituting a Consolidated Government Efficiency plan for the municipalities and special districts within Westchester County and;

WHEREAS, The City of Rye must send notice by the end of February of our intent to participate in the Consolidated Government Efficiency Plan; now therefore be it;

RESOLVED, that the City Manager is authorized to provide notice of the City's intent to participate with Westchester County in the Consolidated Government Efficiency Plan.

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.

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

There were no residents who spoke under this Agenda item.

10. One appointment to the Rye Senior Advocacy Committee for a three-year term expiring January 1, 2018, by the Mayor with Council approval

This Agenda item was deferred.

- 10A. One appointment to the Planning Commission to fill a term expiring January 1, 2016, by the Mayor with Council approval

This Agenda item was deferred.

- 10B. One appointment to the Rye Cable and Communications Committee for a three-year term expiring January 1, 2018, by the Mayor with Council approval

This Agenda item was deferred.

11. Authorize payment of the balance of the 2014/2015 Rye Neck Union Free School District taxes collected by the City to the School District
Roll Call.

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

RESOLVED that the City Council of the City of Rye hereby authorizes that payment of the balance of \$201,879.02 of unpaid Rye Neck U.F.S.D taxes, on property within the City of Rye as of December 31, 2014, be made to the Treasurer of the Rye Neck UFSD.

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.

12. Appeal of denial of FOIL request by Timothy Chittenden

Corporation Counsel Wilson said that Mr. Chittenden is appealing redactions to documents provided to him in connection with a pedestrian/vehicle accident on Sonn Drive. She said that redactions were made to phone numbers, dates of birth, insurance policy number and VIN number pursuant to Public Officers Law 87(2)(b). Councilman McCartney noted that another section was redacted regarding the ticket information regarding a violation, which should not have been redacted.

Councilman McCartney 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 of a response to a FOIL request submitted by Timothy Chittenden for records relating to a pedestrian/vehicle accident on Sonn Drive solely as to the redaction of the MV104-A information in the Ticket Arrest Violation section, (right half) which refers to the ticket and VTL section number. All other aspects of this appeal were denied.

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.

13. Miscellaneous Communications and Reports

There was nothing discussed under this Agenda item.

14. New Business

Mayor Sack announced that there is a new development in the *Caspi v. City of Rye, et al* litigation, where the City had won a Summary Judgment motion dismissing it from the case. Plaintiffs have filed a motion seeking to bring the City back into the case and, at this point, it is believed it will be most efficient for the City to be represented in this particular aspect of the case by the firm of Harris Beach.

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

RESOLVED, that the City Council of the City of Rye hereby retains the firm of Harris Beach to represent the City going forward in the matter *Caspi v. City of Rye, et al.*

Councilwoman Killian asked if City Boards such as the Sustainability Committee could have a page on the City website or a way to distribute information through a listserv. City Manager Culross said this would have to be limited but could probably be done for City Committees.

15. Adjournment

There being no further business to discuss Councilwoman Brett made a motion, seconded by Councilman Slack and unanimously carried, to adjourn into executive session to discuss litigation and personnel matters with regard to the Fire Department and litigation with regard to Rye Golf Club and not return to the regular session at 8:28 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk