

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on March 11, 2015 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 7:00 p.m. Councilman McCartney made a motion, seconded by Councilwoman Brett and unanimously carried to immediately move into executive session to discuss litigation. Councilman Slack was not present. 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. General Announcements by the Council

Announcements were made by members of the Council regarding events, meetings and issues that may be of interest to residents. Mayor Sack noted the deaths of Carmen Vecchiola, and Nancy Stampleman and called for a moment of silence in their honor.

4. Draft unapproved minutes of the regular meeting of the City Council held February 11, 2015 and special meeting of the City Council held March 2, 2015

Councilwoman Brett made a motion, seconded by Councilman Mecca and unanimously carried, to approve the minutes of the regular meeting of the City Council held on February 11, 2015 and the minutes of the special meeting of the City Council held on March 2, 2015.

5. Issues Update/Old Business.

Reports were made on the following topics:

Coyotes – Mayor Sack said that several years ago, when humans were attacked by coyotes in Rye the City was able to obtain permits from the Department of Environmental Conservation (DEC) to trap coyotes. Recently there have been more sightings of coyotes in Rye. However, the DEC will not issue a permit to trap or kill a coyote unless a pattern of violence toward people can be demonstrated. Residents are asked to call the police and report when they see coyotes and to contact the DEC. Police Commissioner Pease said that State law does not allow police to shoot a coyote unless it is being aggressive or is hurt or sick. He advised homeowners to keep shrubs trimmed, not to leave food out, and to allow small dogs or cats in their yards. The Commissioner also explained the requirements for bow hunting coyotes during hunting season.

Deer – Commissioner Pease also explained the regulations for bow hunting of deer on private property. It can only be done during hunting season with a DEC-issued permit and on property that is 150 feet or more from a neighboring property. Councilman Slack posed a question to Commissioner Pease regarding the safety of allowing bow and arrow hunting in Rye based on the density of the City in order to determine if the Council should consider legislation restricting this type of hunting. Commissioner Pease said he thought hunting on individual properties was not a good idea and dangerous, but that he did not know whether the same would be true for properties such as the Marshlands.

Bank Robbery at TD Bank and Bomb Threats at the Middle School - Commissioner Pease said that the Police Department is making progress on both matters. Mayor Sack said he had reached out to the District Attorney's office and indicated that the bomb threats are a priority for the City.

Lights at Playland Access Road – Mayor Sack reported that the County has been asked to replace the lights that are out on the Playland Access Road but they have not shown a willingness to accept responsibility saying that more is involved than just replacing the bulbs. *Mack Cunningham* suggested that the County should be put on notice regarding any accidents that may occur on the road because it is a County road.

Councilwoman Brett reported on the following items before the Planning Commission:

Affordable Housing Project (North Street and Theodore Fremd Avenue) – the applicant has presented his plans for the project to the Planning Commission. The Commission has asked for more detail.

Request for zoning change at 120 Old Post Road - A market analysis and tax analysis on the property and information on density in connection with the proposal for senior housing have been provided to the Planning Commission. The Commission has asked for more information on density and traffic issues. It was suggested that the traffic issues should be reviewed by the Traffic and Pedestrian Safety Committee.

6. Authorization for the City Manager to enter into a management agreement with Lessings, Inc. to operate the Pool Snack Bar, Golf Snack Bar, and Golf Half Way House at the Rye Golf Club  
Roll Call.

Councilman McCartney reported that three bids were received for the contract and after evaluating the strengths and weaknesses of each potential operator, the recommendation is to go with the proposal submitted by Lessings, Inc. Councilwoman Bucci praised the members of the Golf Commission for their work in reviewing the proposals. Mayor Sack said that Jack Gordon, the attorney who assisted in negotiating the original contract with Lessings, is reviewing this agreement which will be an addendum to the original contract.

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

**RESOLVED**, that the City Council of the City of Rye hereby authorizes the City Manager to enter into a Management Agreement with Lessings, Inc. to operate the Pool Snack Bar, Golf Snack Bar, and Golf Half Way House at the Rye Golf Club.

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.

7. Consideration of Bid for the Rye Golf Club Pool Rehabilitation contract (Contract #2015-01)  
Roll Call

City Manager Culross said that the single bid that was received came in above the estimate for the project and will be re-bid.

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

**RESOLVED**, that the City Council of the City of Rye, hereby rejects the bid received for the Rye Golf Club Pool Rehabilitation contract (Contract #2015-01).

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.

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

*Mack Cunningham, 502 Forest Avenue*, said that the State legislature is considering stripping the pension contributions made by taxpayers for elected officials convicted of a felony. He suggested that this should also be considered for employees and appointees of local municipalities and counties who are vested in the New York State pension program. Mr. Cunningham also said that contracts with temp agencies should not be considered professional service contracts. Councilman Slack suggested that the City look at how other communities deal with professional services contracts in their purchasing policies. Mr. Cunningham also suggested that since petroleum prices are lower this year the City should spend more money on paving projects for 2015 by utilizing money allocated for studies.

8A. Consideration of settlement in the litigation *Caspi v. City of Rye*

Mayor Sack gave a brief summary of the litigation which stemmed from an incident in December 2004 where the plaintiff suffered injuries incident to his arrest. A lawsuit was commenced in 2007 naming three individual police officers, the City of Rye, the Police Commissioner and a Police lieutenant. In 2014 the City, the Police Commissioner and the lieutenant were dismissed from the case as a result of a Summary Judgment motion. The Mayor said that two elements precipitated the settlement being considered at this time: (1) the City learned that a ten-year old police report not favorable to the City was recently discovered, and, as a result, the summary judgment motion was vacated by the Judge; and, (2) the City learned that its excess insurance carrier, who is responsible for anything in excess of \$1 million, has disclaimed coverage on the case saying that they had not received timely notice of the claim. The City will either contest the disclaimer or seek recovery from parties who may have been responsible for the alleged failure of timely notice. If these actions are unsuccessful the City will be responsible for anything above \$1 million. The Council has deemed it appropriate to vote on the settlement of the matter in order to manage the risk of uncertainty at trial. The settlement has been agreed to and executed by the plaintiff and calls for a settlement amount of \$475,000, payable \$350,000 to the plaintiff's attorney and \$125,000 to the plaintiff. There are other costs

related to the defense of the case including attorneys' fees for each of the defendants' lawyers, which amount to about \$645,000. At this point, the City's risk is \$125,000.

Mayor Sack said the Council is requesting that the City Manager direct the Police Commissioner to review all policies and procedures with regard to proper filing and retention of police reports and to determine whether they were followed in this case and, if not, to take appropriate action. Additionally, the City Manager is asked to direct the Police Commissioner to reinforce the need to follow procedures and policies going forward and recommend ways to strengthen them. Also, the City Manager is asked to direct the Police Commissioner to reinforce the policies and procedures regarding internal investigations.

Councilman McCartney expressed his support for the settlement, saying that it is very expensive for attorneys to prepare for and conduct a trial and there is always uncertainty in jury trials. Councilman Slack said an investigation should have been conducted in this matter, and going forward, it should be mandatory not discretionary to conduct investigations so the City never finds itself in a similar situation. Councilwoman Killian said that looking at the matter in a best case/worst case scenario, the best case is that it will cost the City a lot of money but in the worst case it will cost even more money and it is clear to her that settling is the best course of action to take.

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

**RESOLVED**, that the City Council of the City of Rye hereby authorizes the settlement of litigation in the matter of *Caspi v. City of Rye, et al* in accordance with the terms of the Stipulation of Settlement.

**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.

9. Authorization for Jaffe & Asher, LLP to represent the City of Rye in the City's employee theft claim against Travelers Casualty and Surety Company of America

Roll Call.

Mayor Sack said that the Council believes it is wise to retain the assistance of outside counsel with experience in insurance claims coverage to assist in the handling of the City's employee theft claim relating to the Golf Club. Councilman McCartney disclosed that he recommended to Corporation Counsel Wilson that the Jaffe & Asher firm be considered because one of the associates at the firm used to work for him. Mr. McCartney says that he has no

business relationship with the firm. Mayor Sack reiterated that the firm was chosen from several other firms interviewed because of their expertise. There was a discussion among members of the Council and Leon Sculti, Chair of the Golf Commission, regarding whether retaining Jaffe & Asher was an indication that the City would be commencing legal action against Travelers and the consequences of providing confidential documents to Travelers.

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 Jaffe & Asher, LLP to assist the City of Rye in the City's employee theft claim with Travelers Casualty and Surety Company of America at a rate of \$400 per hour for a partner and \$300 per hour for associates.

**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.

10. Consideration of a request by the American Legion Post 128 and the Ladies Auxiliary of Post 128 to approve a parade to commemorate Memorial Day to be held on Monday, May 25, 2015 from 9:45 a.m. to 10:15 a.m.

Councilman McCartney made a motion, seconded by Councilwoman Brett and unanimously carried, to approve the following Resolution:

**RESOLVED**, that the request by the American Legion Post 128 and the Ladies Auxiliary of Post 128 for use of City streets on the morning of Monday, May 25, 2015 for a parade prior to ceremonies on the Village Green to commemorate Memorial Day is hereby approved.

11. Consideration of a request by Milton Elementary School PTO to approve a parade to precede the Milton Elementary School Fair on Saturday, March 14, 2015 from 9:00 a.m. to 10:15 a.m.

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

**RESOLVED**, that the request by Milton Elementary School PTO for use of City streets on Saturday, March 14, 2015 from 9:00 a.m. to 10:15 a.m. for a parade to precede the Milton Elementary School Fair is hereby approved.

12. Resolution to declare certain City of Rye equipment as surplus  
Roll Call.

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

**WHEREAS**, the City has been provided with a list of City equipment identified as being obsolete or will become obsolete during 2015, and

**WHEREAS**, the Police Department has recommended that said equipment be declared surplus, now, therefore, be it

**RESOLVED**, that said equipment are declared surplus, and, be it further

**RESOLVED**, that authorization is given to the City Comptroller to sell or dispose of said equipment in a manner that will serve in the best interests of the City.

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.

List of Surplus Equipment:

**PHONE SYSTEM PROCESSOR/CABINET**

Avaya Merlin Magix Double Cabinet Phone and Voice Mail System

**CONSOLES AND EXTENTION**

<u>Brand</u>	<u>MODEL #</u>	<u>QUANTITY</u>
AVAYA	MLX – 20L	2
LUCENT	MLX – 10DP	14
AVAYA	2500YMGP-003	2
AVAYA	2554YMGP-003	2
AVAYA	MLX-16DP	2
LUCENT	2500YMGP-003	5
GE	2202 MC	1

AVAYA	DSS	1
ATT	982	1
ATT	993	2
ATT	MLX – 10D	1

13. Miscellaneous Communications and Reports

Mayor Sack noted that the bronze lions in front of the home of the Kennedys on Cowles Avenue have been stolen and a \$1,000 reward has been offered. He urged anyone with information to contact the Police Department.

14. New Business

Councilman Mecca said the Department of Public Works has done a great job of plowing this winter.

14A. FOIL Appeal submitted by Stephen Lamont

Corporation Counsel Wilson reported that a FOIL appeal has been submitted by Stephen Lamont for email records between her and Kevin Plunkett regarding Mr. Lamont's Golf Club membership. He was informed that there are no responsive records.

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

**RESOLVED**, that the Appeal of a response to a FOIL request submitted by Stephen Lamont seeking email records between Kristen Wilson and Kevin Plunkett regarding the requestor's Golf Club membership is hereby denied because there are no responsive records.

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.

14B. Appointment to Cable TV Studio Joint Task Force

Mayor sack appointed Steve Fairchild, Chair of the Rye Cable & Communications Committee, to the Cable TV Studio Joint Task Force.

15. 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