

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on June 10, 2015 at 7:30 P.M.

PRESENT:

JOSEPH A. SACK Mayor
LAURA BRETT
KIRSTIN BUCCI
JULIE KILLIAN (Arrived at 7:35 p.m.)
TERRENCE McCARTNEY
RICHARD MECCA
RICHARD SLACK
Councilmembers

ABSENT: None

The Council convened at 7:01 p.m. and Councilman McCartney immediately made a motion, seconded by Councilman Mecca and unanimously carried, to adjourn into executive session to discuss collective bargaining. Councilman McCartney made a motion, seconded by Councilman Mecca and unanimously carried, to adjourn the meeting at 7:28 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 events and activities that may be of interest to residents.

This Agenda item was taken at the start of the meeting.

- 3A. Resolution appointing a City Manager effective August 11, 2015, establishing the terms and conditions of employment, and authorizing the Mayor to sign an employment agreement
Roll Call

Mayor Sack announced that the City Council would be voting to hire Marcus Serrano as the new City Manager. The Mayor summarized the search process that was utilized over the last six months to select the new manager from many qualified candidates. The Mayor said that Mr. Serrano has extensive experience in Westchester communities and has been referred to as “open, fair, honest, communicative, proactive and friendly.” Councilwoman Brett said the City will benefit from Mr. Serrano’s Westchester County experience. Councilwoman Killian said her favorite comment about Mr. Serrano during a reference check was that he has “a private sector mentality in the public sector”. Councilman Slack called Mr. Serrano a “genuine person who people will like and respect”. Councilman McCartney said that he had written about Mr. Serrano in an upcoming newspaper column. Councilman Mecca and Councilwoman Bucci agreed with the other members of the Council.

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 Mayor to enter into an Employment Agreement with Marcus Serrano to serve as the City Manager of the City of Rye, effective August 11, 2015.

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.

Mr. Serrano made brief remarks saying he was happy and excited to come to Rye and called it the biggest honor he has had in his career. He said was looking forward to working for the Council because they have the best interests of the residents in their hearts.

Mayor Sack offered thanks to Eleanor Militana for serving as the Interim City Manager and said that she will return to the position of Assistant City Manager when Mr. Serrano arrives.

4. Draft unapproved minutes of the regular meeting of the City Council held May 20, 2015 and the Special meeting of the City Council held June 1, 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 May 20, 2015 and the special meeting of the City Council held on June 1, 2015.

5. Issues Update/Old Business

Councilwoman Brett announced that the Site Plan and Wetland Permit for the Theodore Fremd Avenue/North Street affordable housing project have been approved by the Planning Commission.

Mayor Sack asked for an update on how the 25 mile per hour pilot program is going in the “loop” area around Stuyvesant Avenue and Forest Avenue.

Councilwoman Killian asked for an update on the plan to remove the rocks from the right-of-ways.

6. Continuation of the Public Hearing to amend local law Chapter 177, “Taxation”, Article XII, “Exemption for Historic Districts” by adding Section §177-82, “Historic Districts”, to designate portions of downtown Rye as one historic district to allow property owners to apply for the real property tax exemption

This Agenda item was deferred to the next City Council meeting.

7. Public Hearing to amend local law Chapter 133, “Noise”, of the Rye City Code by amending Section §133-8, “Construction work restricted to certain hours and days” to set a moratorium on mechanical rock removal

Mayor Sack said that the Council wants to get something in place for the time period when a new law regulating mechanical rock removal is being considered. Councilman Slack reported on recommendations of the Study Group that should be made in a report in July. He referred to a chart that compared the City’s current laws, the Study Groups Recommendations, and the current Town of Mamaroneck Law in the following categories: duration hours; total hours of chipping permitted; permit requirements; notice to neighbors; holiday restrictions; school testing restrictions; restrictions on the number of chippers/hammers; and restrictions on rock crushing on site. He said if the proposals of the Study Group were enacted by the Council the City it would be a tremendous benefit to the community and could also be the most restrictive durational law in Westchester.

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

Members of the public who commented on rock chipping issues and the proposed law included: *Eric Bock, Lori Fontanes, Bertrand De Frondville, Paul Varsames, Bob Marrow, Stanislav Kotyza, Tracy Stora, Paul Fulenwidel, Emily Hurd, Paul LaBossier, John Mayo Smith, Alan Clark and Chris McGuire.* Comments with respect to rock chipping were varied, including comments both in favor and against the proposed moratorium. Some commented on the disruption to their enjoyment of their properties and the health and safety issues related to chipping and blasting and suggested that the moratorium should ban rock chipping altogether. Others commented that the proposed moratorium said the proposal should be more balanced; could interfere with property rights and affect property values; and pointed out issues faced by builders. There were also suggestions regarding including a waiver process that would involve approval from neighbors and that the issue should be put to public referendum.

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

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

CITY OF RYE

LOCAL LAW NO. 4 OF 2015

A Local Law adopting a six (6) month moratorium in the City of Rye temporarily prohibiting Mechanical Rock Removal or use of explosives within the City of Rye for more than a total of thirty (30) consecutive calendar days for the duration of this moratorium from the day that Mechanical Rock Removal or the use of explosives begins.

WHEREAS, the extended period of Mechanical Rock Removal and the use of explosives in the City can pose, among other things, quality of life impacts to the community; and

WHEREAS, in November 2014, the Mayor and City Council formed a Rock Chipping Study Group to study, among other things, whether new or more restrictive limitations should be placed on hours, duration, decibel levels, on-site crushing, and amounts which may be removed, as well as whether greater efforts should be taken to control dust, noise, erosion, and water runoff, and to enhance safety and make recommendations to the Rye City Council of ways to address on a going-forward basis issues raised in City Council meetings concerning rock chipping in Rye ; and

WHEREAS, the City Council has determined that it is appropriate to review the City's existing regulations relating to rock excavation to ensure that such activity does not negatively impact the quality of life of its residents and businesses; and

WHEREAS, Mechanical Rock Removal and use of explosives, in the absence of appropriate limitations, may have negative impacts on the City, its residents and the existing businesses; and

WHEREAS, further analysis is needed in order to develop the regulations and mitigation measures for Mechanical Rock Removal and the use of explosives; and

WHEREAS, the City expects that it may require up to six (6) months to engage in the process for developing and considering the aforementioned regulations and mitigation measures.

NOW, THEREFORE, Be It Enacted by the City Council of the City of Rye as follows:

Section 1. Purpose

In order to ensure appropriate limitations on the use of mechanical rock removal and/or the use of explosives, there shall be a moratorium on any mechanical rock removal or use of explosives

in excess of a total of thirty (30) consecutive calendar days during this moratorium period. Any individual who intends to engage in mechanical rock removal or use explosives after this local law is becomes effective shall notify the City Building Department in writing the date such Mechanical Rock Removal or use of explosives will commence.

Section 2. Authority

This moratorium is enacted by the City Council of the City of Rye pursuant to its authority to adopt local laws under the New York State Constitution Article IX and Municipal Home Rule Law § 10.

Section 3. Enactment of Moratorium

1. Any individual who intends to engage in Mechanical Rock Removal as defined by §133-8(A) or use explosives in compliance with Chapter 98, Article VII on any property in the City of Rye shall register with the City at least seven (7) calendar days prior to the commencement of such activities.
2. During the period of this moratorium all Mechanical Rock Removal or explosive use shall cease on the 31st day after the commencement of such activity.
3. If the owner of the property or the owner's agent: a) commences Mechanical Rock Removal or uses explosives without properly notifying the City Building Department in writing of the commencement date; and/or b) engages in such activity more than a total of thirty (30) consecutive calendar days from the date of commencement shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$1,000, an order to suspend construction work on the site, or by imprisonment not exceeding 15 days, or any combination of such fine, suspension and imprisonment. Each day of Mechanical Rock Removal and/or use of explosives prior to sending in notice of the commencement date or in violation of the thirty (30) day limit shall be construed as a separate offense.

Section 4. Appeals/waiver

An aggrieved property owner may apply to the City Council for a waiver and the City Council shall have the discretion to grant such waiver. The property owner shall have the burden of demonstrating to the City Council that a waiver is warranted due to substantial hardship and that such substantial hardship was not the result of an act or omission by the property owner.

In granting a waiver, the City Council must find that the waiver will not adversely affect the purpose of this Local Law.

Section 5. Early Termination or Extension of this Local Law

In the event any new Local Law which addresses the substantive issues set forth herein, should be enacted and adopted by the City Council prior to the date that the moratorium imposed by this

Local Law expires, then in that event, the moratorium imposed by this Local Law shall expire on the date such new Local Law takes effect in accordance with § 27 of the Municipal Home Rule Law.

In like manner, if more than six (6) months have passed since the implementation of this Local Law, and it shall be determined by a finding of the City Council that an extension of this moratorium is required, then the City Council by resolution, may extend this moratorium for such a period of time as it deems necessary in order to further the purposes of this law up to and including an additional six (6) months from the date of the original expiration of this Local Law.

Section 6. Conflicts with State Statutes and Authority to Supersede

To the extent any provisions of this Local Law are in conflict with or are construed as inconsistent with the provisions of New York State Law, this Local Law shall control.

Section 7. Severability

If any part of this Local Law is deemed by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Local Law.

Section 8. Effective Date

This Local Law shall take effect on June 17, 2015.

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.

8. Consideration to set a Public Hearing for July 8, 2015 to amend local law Chapter 133, "Noise", of the Rye City Code regarding regulations on mechanical rock removal

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

WHEREAS, the Council wishes to consider amending Chapter 133, "Noise" of the Code of the City of Rye regarding regulations on mechanical rock removal; 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 July 8, 2015 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 133, "Noise" of the Rye City Code regarding regulations on mechanical rock removal

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 8th day of July, 2015 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 regarding a proposed local law to amend Chapter 133, "Noise" of the Rye City Code regarding regulations on mechanical rock removal.

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

City Clerk
Dated: July 1, 2015

9. Discussion and Consideration to set a Public Hearing for July 8, 2015 to amend local law Chapter 197, "Zoning", of the Rye City Code by amending Section §197-2, "Districts, A: Residence Districts" to change the zoning designation of a property at 120 Old Post Road from the B-4, Office Building, District to a New RA-6, Active Senior Residence, District; and amending Section §197-86, "Tables of Regulations: Table A, Residence Districts – Area Yard, Height and Miscellaneous Regulations" to add the proposed RA-6 zone

Councilwoman Brett reviewed the proposal which has been before the Planning Commission for many months. She said the Council needs to consider whether the proposed use is appropriate for the site; the bulk and density of the proposed zoning; and community impacts related to traffic and taxes. Jonathan Kraut, the attorney for the applicant, discussed a prior proposal from the applicant for a hotel at the location; the reduction in the value of the property over the last several years; and the current proposal for the location.

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

WHEREAS, the Council wishes to consider the application from Old Post Road Associates, LLC to amend the City Zoning Code and change the district designation for an approximately 7.0 acre property located at 120 Old Post Road from the B-4 Office Building District to a new RA-6 Active Senior Resident District to provide for the construction of age-restricted apartments; 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 July 8, 2015 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 amendment.

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

**PUBLIC NOTICE
CITY OF RYE**

Notice of Public Hearing on the application from Old Post Road Associates, LLC to amend the City Zoning Code and change the district designation for an approximately 7.0 acre property located at 120 Old Post Road from the B-4 Office Building District to a new RA-6 Active Senior District to provide for the construction of age-restricted apartments

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 8th day of July, 2015 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 regarding an application from Old Post Road Associates, LLC to amend the City Zoning Code and change the district designation for an approximately 7.0 acre property located at 120 Old Post Road from the B-4 Office Building District to a new RA-6 Active Senior District to provide for the construction of age-restricted apartments.

Copies of documents pertaining to this application may be obtained from the office of the City Planner.

City Clerk
Dated: July 1, 2015

10. Presentation on the S.A.F.E. Program (Stuffed Animals for Emergencies, Inc).

Rachel Cohen and Sofia Wilmer made a presentation regarding the S.A.F.E. program that was started in the Village of Mamaroneck, whereby stuffed animals are provided to the Police Department and emergency response teams to distribute to children caught in traumatic situations. They would like to expand the program into the City of Rye and have met with Councilwoman Killian and members of the Rye Police Department.

11. Discussion on improvements in the Forest Avenue corridor

Kristan Watson and Katie Schmitz made a presentation requesting that the Council fund a study in the 2016 Budget for the extension of sidewalks on Forest Avenue from Apawamis Avenue to Manursing Avenue and along Manursing Avenue from Forest Avenue to Davis Avenue in order to enhance safety for pedestrians. The request is for a sidewalk on one side of the street only. So far 372 people have signed a petition requesting the study. Councilman Mecca inquired if anyone had considered turning this section of Forest Avenue into a one-way street in order to reduce the amount of road width required so the remaining area can be dedicated for sidewalks. Brian Dempsey, Chair of the Traffic & Pedestrian Safety Committee (TPS) said that TPS has not looked at Mr. Mecca's suggestion but said making that section of Forest Avenue one-way would push more traffic onto Midland Avenue where there are already traffic issues related to Midland School. Mr. Mecca suggested this could be included in a traffic study for the proposed capital improvements to the Five Points Intersection at Midland Avenue. Mr. Dempsey said the cost of surveying the area of Forest Avenue would be about \$20,000. A conceptual study would cost from \$15,000 to \$25,000 and full design plans would cost another \$15,000 to \$25,000. Mayor Sack said there is a process for any public works project and suggested that the proposal be sent to City staff so it can be considered for inclusion in the Capital Improvement Program.

12. Presentation of the City of Rye Stormwater Management Program 2014 Annual Report

City Engineer Ryan Coyne said the City has been required for the last 12 years by the Department of Environmental Conservation (DEC) to increase its stormwater awareness through the following categories: Public Education and Outreach; Public Involvement; Illicit Discharge Detection and Elimination; Construction and Post Construction; and Municipal Operations. These requirements are accomplished through such ways as: issuing the Resident's Guide to Public Works; this annual presentation to the Council; the work of the Planning Commission, CC/AC and Sustainability Committee in connection with stormwater issues; tracing non-stormwater in the stormwater flows in order to eliminate them; Building Department and Planning Department erosion control measures for construction projects; sweeping the streets; cleaning catch basin, and the DPW, Recreation Department and Golf Club. He added that the City is on track with meeting the requirements.

13. Presentation by the Sustainability Committee on the Climate Smart Communities Pledge

Sara Goddard, Chair of the Sustainability Committee, said that the Committee would like the City to consider becoming a Climate Smart Community (CSC). This is a New York State Department of Environmental Conservation (DEC) program which is a network of communities committed to reducing greenhouse gas emissions and improving climate resilience. Councilman Mecca said the initiative reminds communities when they are planning to look for resources that would assist in slowing the use of energy. CSC communities are given extra points when applying for grants. Ana Hagerup a representative of CSC said that ten pledge elements that communities can take are included in a model Resolution. She said that in order to become a Climate Smart Community the Council would adopt a Resolution and submit it to the DEC. Corporation Counsel Wilson was asked to review the Resolution before it is put on an agenda for a vote.

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

There were no residents wishing to speak under this Agenda item.

15. Resolution to amend the City of Rye's FOIL procedures

Mayor Sack said the proposed change to the FOIL procedures would make the Corporation Counsel the initial reviewer of FOIL requests and the City Manager the person who will decide appeals. It will remove the City Council from a formal role in the process.

Mayor Sack made a motion, seconded by Councilwoman Brett, to amend the City of Rye's FOIL procedures as follows:

Procedures for Public Access to the Records of the City of Rye

Section 1. Purpose and Scope

- (a) These regulations are established pursuant to Article 6 of the Public Officers Law, known as the Freedom of Information Law.
- (b) These regulations provide the procedures by which records of the City of Rye may be obtained.
- (c) Personnel of the City of Rye shall furnish to the public the information and records required by law and those which were furnished to the public prior to the enactment of the Freedom of Information Law, subject to the conditions contained in subdivision 2 of Section 87 of the Freedom of Information Law, or other provisions of Law.

Section 2. Designation of records access officer.

- (a) The Corporation Counsel shall be the Records Access Officer responsible for assuring compliance with the FOIL regulations.
- (b) The records access officer shall be responsible for assuring appropriate responses to public requests for access to records. The records access officer shall assure that appropriate personnel are adequately instructed in and properly perform the functions described in Sections 6 and 7 of these regulations and shall supervise the administration of these regulations.

Section 3. Designation of fiscal officer.

The City Comptroller is designated the fiscal officer, who shall certify the payroll and respond to requests for an itemized record setting forth the name, address, title and salary of every officer or employee of the City of Rye.

Section 4. Location.

Records shall be available for public inspection and copying at the office of the records access officer at City Hall, Boston Post Road, Rye, New York, or at the location where they are kept.

Section 5. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours City Hall is regularly open for business except that all records must be returned to their proper custodian at least 30 minutes before closing time.

Section 6. Request for public access to records.

- (a) Requests for records shall be in writing (hard copy or electronically) in accordance with New York Public Officers Law. The custodian of the records has discretion to waive the requirement for written requests in appropriate circumstances.
- (b) If records are maintained on the internet, the requestor shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.
- (c) Officials shall respond to a request for records no more than five (5) business days after receipt of the request. This response will acknowledge receipt of request and indicate that the requestor will receive a response within twenty (20) business days unless otherwise noted. Any electronic requests received after 5:00 P.M. will be considered received by the City on the next business day.
- (d) A request for access to records should be sufficiently detailed to identify the records. Where possible, the requestor should supply information regarding dates, titles, file designations or other information which may help identify the records.

- (e)
 - 1. A current list, by subject matter, of all records produced and retained in accordance with the Department of Education's State Archives Schedule MU-1, shall be maintained by the City Clerk and shall be available for public inspection and copying. The list shall be sufficiently detailed to permit the requestor to identify the file category of the records sought.
 - 2. The subject matter list shall be updated periodically and the date of the most recent updating shall appear on the first page. The updating of the subject matter list shall not be less than semiannual.
 - 3. A duplicate copy of such current subject matter list shall be filed by each department with the City Clerk who shall consolidate and maintain all such current lists.
- (f) Appropriate personnel of the City of Rye shall assist the requestor in identifying requested records.
- (g) Upon locating the requested records, the appropriate personnel of the City of Rye shall, as promptly as possible, and within the time limits set in subsection (b) above, either:
 - (1) Make the records available by either, (i) indicating a time and date when the records are available for review and inspection, or (ii) send the records electronically if the request was for electronic copies and the records can be sent electronically, or
 - (2) Deny access in whole or in part, and explain in writing the reasons therefore.
- (h) Upon failure to locate records, the appropriate official shall certify that:
 - 1. The City of Rye is not the legal custodian of the requested records; or,
 - 2. The requested records, after diligent search, cannot be found.

Section 7. Inspection and copying of records.

- (a) A person who has requested access to the public records of the City of Rye shall be given full opportunity to see and inspect such records unless access is denied as provided in Section 8 herein.
- (b) The requestor may also make a copy of the records he/she inspects. No record may be removed from the office where it is located without written permission of the person in charge of the office at that time.
- (c) Upon request and payment of the established fee, if any, the appropriate officer or employee shall prepare and deliver a transcript of such records.
- (d) Upon request and payment of the established fee, if any, an appropriate official of the City of Rye shall certify as correct a transcript prepared by the custodian of the records.

Section 8. Denial of access to records.

- (a) Denial of access to records shall be in writing stating the reason(s) therefore and advising the requestor of the right to appeal to the City Manager within thirty (30) days of the denial. Appeals heard by the City Manager are final determinations.
- (b) If requested records are not provided promptly, as required in Section 6 (c) of these regulations, such failure shall also be deemed a denial of access. In such cases, appeals must be filed within thirty (30) days of the date by which the records were to be made available.
- (c) The time for deciding an appeal by the City Manager shall commence upon receipt of a written appeal identifying:
 - 1. The date of the appeal.
 - 2. The date and location of the original record request.
 - 3. The records to which the requestor was denied access.
 - 4. Whether the denial of access was in writing or by failing to provide records in accordance with the applicable time periods.
 - 5. A copy of the written denial, if any.
 - 6. The name and return address (or email address) of the requestor.
- (d) The appeal shall be determined by the City Manager within ten (10) business days of the receipt of the appeal. If the appeal is submitted via email, any emails received after 5:00 P.M. will be considered received on the next business day. Written notice of the determination shall be served upon the person requesting the record and the Committee on Open Government.
- (e) A person requesting an exception from disclosure, or an agency denying access to record, shall in all appeal proceedings have the burden of proving entitlement to the exception.
- (f) A proceeding to review an adverse determination upon appeal may be commenced pursuant to Article 78 of the Civil Practice Law and Rules in accordance with all applicable provisions of the law.

Section 9. Fees.

- (a) Except as otherwise specifically authorized by law, or by established practice prior to September 1, 1974, there shall be no fee charged for:
 - 1. Inspection of records;
 - 2. Search for records;
 - 3. Any certification pursuant to this part.

- (b) The fee for a photocopy transcript of records shall be 25 cents per single sided page for pages not exceeding 9 by 14 inches. The City has the authority to redact portions of a paper record in accordance with the Public Officers Law and does so prior to the disclosure of the record by making a photocopy from which the proper redactions are made.
- (c) The fee for photocopies of records exceeding 9 by 14 inches per page or any non-paper format (such as computer disk, microfilm, etc.) shall be the actual costs of reproduction, which shall be deemed to be the average unit cost for making such a photocopy, excluding fixed costs such as operator salaries, except when a different rate is otherwise prescribed by statute.
- (d) The fee for a transcript that is typed, handwritten, or otherwise prepared by hand shall cover the clerical time involved in making the transcript, including comparison for accuracy.
- (e) The fee the City may charge for a copy of any other record is based on the actual cost of reproduction and may include only the following:
 - (1) an amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill required to prepare a copy of the requested record, but only when more than two hours of the employee's time is necessary to do so; and
 - (2) the actual cost of the storage devices or media provided to the person making the request in complying with such request; or
 - (3) the actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, and if such service is used to prepare the copy.
- (f) The City shall inform a person requesting a record of the estimated cost of preparing a copy of the record if more than two hours of an agency employee's time is needed, or if it is necessary to retain an outside professional service to prepare a copy of the record.
- (g) A person requesting a record shall pay the City the required fee for copying or reproducing the record in advance of the City preparing such copy.

Section 10. Public Notice.

A notice containing the job title or name and business address of the records officer and the appeal body shall be posted in the Office of the City Clerk. A copy of these rules will be kept in the custody of the records officer and be made available for inspection upon request.

Section 11. Severability.

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

16. Bid Award for the Rye Free Reading Room Interior Renovations contract
Roll Call.

Chris Shoemaker, Director of the Rye Free Reading Room, said this project was included in the 2012 Bond Referendum.

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 awards the bid for the Rye Free Reading Room Interior Renovations to Optimus Installation in the amount of two hundred fifty-seven thousand, four hundred seventy-four dollars (\$257,474.00).

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.

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 waives Building Department fees of approximately \$8,000 in connection with the Rye Free Reading Room Interior Renovations project.

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.

17. Resolution to amend the 2015 Adopted Fees and Charges for the Rye Golf Club Enterprise Fund
Roll Call

Councilman McCartney explained that the reason for the amendment is due to an issue with turf failure at the Golf Club which is requiring the use of temporary greens. This Resolution will reduce guest fees during the period that the temporary greens are in use and reduces golf cart fees.

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 approves a temporary amendment to the 2015 Adopted Fees and Charges for the Rye Golf Club Enterprise Fund as follows: Guest fees are reduced to \$35.00 and Golf Cart fees are reduced to \$10.00 for Regular Cart fee and \$5.00 for Senior Cart fee.

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.

18. Consideration of a request by Wendy Baruchowitz for the use of City streets for a 1 mile run/walkathon for the Dysautonomia International Fund on Sunday, October 4, 2015 from 10:00 a.m. to 12:00 p.m.

Councilwoman Brett 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 Wendy Baruchowitz for use of City streets for a 1 mile run/walkathon for the Dysautonomia International Fund on Sunday, October 4, 2015 from 10:00 a.m. to 12:00 p.m.

19. Appeal of denial of FOIL request by Timothy Chittenden

Councilwoman Brett said that documents were requested “reviewing the alleged misconduct committed by Lt. Falk in the Caspi litigation.” The request was denied under POL 87(2)(a) because it was a Police internal affairs matter not subject to disclosure and also because it was not subject to disclosure under Section 50A of the New York Civil Rights Law. Additionally some communications were inter-agency and attorney/client privileged communications. Ms. Brett said she also believed that documents related to an investigation into police misconduct would be part of a personnel file where a personal privacy exemption would apply. Corporation Counsel Wilson said that she had spoken with Labor Counsel Vince Toomey, who was involved in the investigation and he believed that the Civil Rights law was the most applicable State statute that would prevent disclosure (Section 87(2)(a) under FOIL) and the emails between Counsel and the client would be exempt as well as attorney/client privileged communications. Councilman Slack says the problem is the way the request is made because it asks for materials that the lawyer reviewed that would be subject to the attorney client privilege or the work product privilege with respect to an investigation.

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

RESOLVED, that the appeal of the denial of a FOIL request made by Timothy Chittenden for “All documents, including but not limited to, all depositions, all correspondence, all e-mails, all reports and any other records reviewed by City Manager Culross, Police Commissioner William Pease, Corporation Counsel Kristen Wilson, Labor Counsel Vincent Toomey, any member of the Rye Police Association of the City of Rye, Inc. and any other City of Rye employee, appointed official or elected official with regard to the review into the alleged misconduct committed by Lt. Robert Falk in the Caspi litigation. All correspondence including e-mails to and from City Manager Culross, Police Commissioner William Pease, Corporation Counsel Kristen Wilson, Labor Attorney Vincent Toomey, any member of the Rye Police Association of the City of Rye, Inc and any other City of Rye employee, appointed official or elected official with regard to this review” is hereby denied under POL Sections 87(2)(a) and 87(2)(g); and Section 50-a of the New York Civil Rights Law.

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.

20. Miscellaneous communications and reports

There was nothing reported under this Agenda item.

21. New Business

There was nothing reported under this Agenda item.

22. Adjournment

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

Respectfully submitted,

Dawn F. Nodarse
City Clerk