

**APPROVED MINUTES** of the Regular Meeting of the City Council of the City of Rye held in City Hall on July 8, 2015 at 7:30 P.M.

PRESENT:

JOSEPH A. SACK Mayor  
LAURA BRETT  
KIRSTIN BUCCI  
JULIE KILLIAN  
TERRENCE McCARTNEY  
RICHARD MECCA (left at 10:30 PM)  
RICHARD SLACK  
Councilmembers

ABSENT: None

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 Corporation Counsel to call the roll; a quorum was present to conduct official city business.

3. General Announcements

Announcements were made regarding various events and activities that may be of interest to residents. Mayor Sack noted the passing of two valued members of the community; Jonathan Brook and John Carolin and requested a moment of silence in their honor.

4. Draft unapproved minutes of the regular meeting of the City Council held June 10, 2015 and the Special Meeting of the City Council held June 19, 2015

Councilwoman Brett made a motion, seconded by Mayor Sack and unanimously carried to approve the minutes of the regular meeting of the City Council held on June 10, 2015 and the Special Meeting of the City Council held on June 19, 2015.

5. Issues Update/Old Business

Rye Golf Club-Traveler's claim regarding the Scott Yandrasevich related losses is in suit and is pending in the Southern District of New York.

Rye Golf Club-Members are playing on temporary greens due to damage to portions of the greens caused by a chemical which was contaminated.

Rye Golf Club-Fair Labor Standards Act (FLSA)- The City is being sued by a group of former wait staff claiming tips were withheld.

Rye Fire Department-Mayor appointed a study group to flag and vet all issues of the Department. Appointed-Councilmembers Mecca, Bucci, Mayor Sack and Chiefs Cotter, Billington and Taylor. Additional members may be appointed in the future.

Master Plan- Mayor appointed a study group to develop a process for a revised Master Plan. Appointed-Deputy Mayor Brett, Councilwoman Killian, Mayor Sack, Chairman of the Planning Commission Nick Everett and Planning Commission member Andy Ball.

Deer Study Group-Janice Seitz and Anne Dooley discussed the process to develop a deer management program by measuring the current problem and gathering baseline data such as deer count, landscape analysis, lyme disease cases, deer vehicle collisions, resident reporting etc.

6. Presentation on City Financials by Brendan K. Kennedy of the auditing firm of SaxBST LLP

The City Council made an affirmation decision, as a matter of best practices, to retain new auditors. Brendan Kennedy accompanied by Jeffrey Roude provided the City with an Auditors Report inclusive of Financial Statements, a Yellow Book Report, Required Communications and Management Letter. One deficiency was identified at the Boat Basin regarding internal control relative to the documentation maintained when testing cash receipts. There were no instances of non-compliance identified and SaxBST issued unmodified opinions; the highest level of assurance that the financial statements are free of material errors.

Mr. Kelly summarized the City's three major operating funds:

General Fund-Surplus of \$750,000-Total Balance \$13,000,000

Rye Golf Club Fund-Trending financially very positively

Boat Basin Fund- Short term perspective-fairly cash flow neutral

Long term perspective- Need to look at user charges and how Boat Basin is set up. Generating a loss from operations. Source Documentation issues were identified which were presented to City's management.

7. 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 owner to apply for the real property tax exemption

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

Several years ago the City Council adopted a local law which allowed tax exemptions for landmarked properties. The amendment to the local law proposes to create a Historical District in the downtown area which would allow qualified properties to apply for this exemption if they meet the definition of an historic building. Any tax increase resulting in the qualified rehabilitation or repair of an historic property would be phased in over ten years with no increase during the first five years. Additions to the law, as it was originally proposed, were made since the last Council meeting with regard to the definitions of rehabilitation, repair and restore. The following are proposed additional limitations/restrictions specific to the Central Business District:

1. The historic building should be at least 100 years old; have at least one of the characteristics outlined in Chapter 117, Landmarks, of the Rye City Code; and be historic in nature
2. Change the outline of the CBD Historic District map by excluding Locust Ave and including City Hall.

Councilman McCartney made a motion, seconded by Councilwoman Brett 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. 5 2015**

**A local law to amend Chapter 177 “Taxation” Article XII “Exemption for Historic Districts” of the Code of the City of Rye by adding new definitions to Section 177-79 “Definitions” and adding a new Section 177-82 “Designation of Historic Districts” as follows:**

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

**Section 1: Chapter 177 Taxation; Article XII Exemption for “Historic Districts”**

**§ 177-79. Definitions.**

HISTORIC BUILDING – Any building that is located within an historic district, is at least 100 years old, and that the Landmarks Advisory Committee has determined to possess one or more of the following characteristics as outlined in Chapter 117 of the Rye City Code:

- (1) Association with persons or events of historic significance to the city, region, state or nation.
- (2) Illustrative of historic growth and development of the city, region, state or nation.

- (3) Embodying distinctive characteristics of a type, period or method of construction or representing the work of a master, or possessing unique architectural and artistic qualities, or representing a significant and distinguishable entity whose components may lack individual distinction.
- (4) In the case of interiors: possessing one or more of the characteristics enumerated above and, in addition, embodying distinctive characteristics of architectural scale, form and visual homogeneity which are an integral part of the character of the structure in which the space is contained.

A historic building does not have to be designated as a Protected Site or Structure.

REHABILITATE - the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

REPAIR – limited replacement in kind – or with compatible substitute material – of extensively deteriorated or missing parts of features when there are surviving prototypes.

RESTORE – to return its interior or exterior appearance to a particular date or time period.

**Section 2:** Chapter 177 Taxation; Article XII Exemption for “Historic Districts”

**§ 177-82. Designation of Historic Districts.**

A. The designated Historic District shall be set forth in this section by block and lot number, street designation, and if appropriate, by local designation.

(1) Central Business District: portions of downtown Rye located in the B-2 zone and portions of contiguous B-1 zones as designated on the accompanying map as one historic district.

**Section 3:** Severability.

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

**Section 4:** Effective date.

This local law will take effect immediately on filing in the office of the Secretary of State.

ROLL CALL:

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

8. Public Hearing to amend local law Chapter 133, “Noise”, of the Rye City Code regarding regulations on mechanical rock removal

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

Councilman Slack began the public hearing by outlining the proposed rock chipping law and explaining that while it is based on the recommendations of the Mayor's rock chipping study group, the language of the proposed law itself was not vetted by individual members of the study group.

The study group appointed by Mayor Sack worked diligently to analyze Chapter 133. “Noise” and in consideration of their review the proposed law was formulated by the City. The Mayor asked the study group not to make recommendations until the Council heard a wider response from the public.

Several of the principal ideas embodied in the proposed law are:

- Thirty (30) calendar day duration for rock chipping etc.
- Restriction on proposed rock chipping hours.
- Neighbors must be noticed by mail.
- Added new calendar days excluded from rock chipping
- Exclusion of rock chipping (near schools) on certain testing days.
- Exclusion of rock crushing on site
- Only one active machine on site
- Exclusion for Utilities (i.e. Con Edison)

Mayor Sack opened the floor for comments; members of the public including residents and builders offered their views on the proposed law and the rock chipping process in general. A robust public comment and discussion period lasted for one and a half hours.

Mayor Sack made a motion, seconded by Councilman Mecca and unanimously carried, to continue the public hearing at the August 5, 2015 City Council meeting.

9. Public Hearing 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

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

Jonathan Kraut, Esq. on behalf of the Alfred Weissman Group discussed the changing of the zoning designation of 120 Old Post Road from 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.

Mr. Kraut noted the following in his presentation:

- Present site has a three (3) story office building.
- Leasing the space has been difficult, resulting in a 54% reduction in assessment.
- There are no prospects for rental as the building is currently configured.
- The current zoning of the property has no other commercial uses that are viable.
- The new building is luxury rental for 55 and older residents which is a zero gain burden on the school district. Research indicates there is a need for this type of housing.
- It is a good transitional use for the area from office medical and the Osborn Senior Living residence into a residential corridor.
- Located adjacent to the I-95 and Boston Post Rd.
- The Planning Commission reviewed the proposed use and has approved the repurposing of the property.

Councilman Slack noted that this zone will be the highest in density compared to the other residential zones and requested an explanation at the August 5, 2015 meeting as to why this zone was chosen to exceed the density limits as opposed to other residential zones.

Mayor Sack raised the letter received from Westchester County which recommends that 10% of the units be set aside as affordable housing regardless of the age of the residents. He requested that the applicant come back to the Council with a consideration of what percentage, if any, they would be willing to make affordable housing. Mayor Sack also questioned the viability of the building as office space and noted that there were office buildings at 90% occupancy in the area.

Mayor Sack made a motion, seconded by Councilwoman Brett and unanimously carried to continue the public hearing at the August 5, 2015 meeting.

10. Resolution authorizing the acceptance of funding through the NY Rising Community Reconstruction Program and providing authorization for the Mayor and City Council to Manager to enter into the following agreement and resolutions:

- NY Rising Community Reconstruction Program Subrecipient Agreement
- Resolution to adopt a Procurement Policy
- Resolution to adopt a Citizen Participation Plan
- Resolution to adopt an Affirmative Action Plan

- Resolution to adopt Section 504 Policies and Grievance Procedures

The City was one of the few communities selected to participate in round two of the NY Rising Community Reconstruction Program and was awarded \$3,000,000 for flood mitigation and redevelopment programs. Potential projects have been identified for completion such as flood mitigation at SUNY (retention basins), Bowman Avenue Dam sluice gate, expansion of the upper pond at the Bowman Ave. Dam, and additional. Drainage on Milton Rd. The City must sign on to these Agreements in order to participate in the program. These Agreements, however, have conditions as the funding is coming from HUD through the Community Block Development Disaster Recovery Program (CDBG-DR). Mayor Sack expressed concern that HUD may make future demands on the City regarding Affordable Housing. He cited a section of the Agreement under General Conditions (page 8) which states that the” subrecipient (City) must agree to comply with all other applicable federal, local and state laws, regulations, HUD Notices, policies and guidelines whether existing or to be established provided the same are applied to activities occurring after the date the policy or guideline was established, governing the Grant Funds provided under this Agreement.” The Mayor requested that these sections be removed or text be added that states that nothing in this Agreement requires the City of Rye to comply with any requirements imposed by HUD regarding affordable housing, zoning or land use. Councilmembers expressed concern with regard to other sections and requirements of these agreements specifically concerning the SEQRA review; hiring of additional staff (environmental monitor) to manage the projects, document compliance, etc.

11. Resolution to approve a Memorandum of Agreement between the City of Rye and the Rye CSEA Local 1000 Clerical Unit

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

**WHEREAS**, the City of Rye and the Rye CSEA Local 1000 Clerical Unit have negotiated a new Memorandum of Agreement which will replace the agreement which expired on December 31, 2013; and

**WHEREAS**, the CSEA Clerical Unit ratified the proposed terms of the MOA, now therefore be it;

**RESOLVED**, that the City Council approve the three year contract MOA between the Rye CSEA Local 1000 Clerical Unit for the contract period of 01/01/2014 to 12/31/2016.

ROLL CALL:

AYES: Councilmembers Bucci, Brett, Killian, Slack and Mayor Sack

NAYS: None

ABSENT: Councilman Mecca

12. Resolution to adopt the Climate Smart Communities Pledge

In order to become a Climate Smart Community, the City must adopt the Climate Smart Communities Pledge. The benefit of becoming a member will give the City additional access to potential grant funding opportunities with regard to sustainability issues. The Mayor clarified that this is not a contract and the City Manager added that there is no penalty if the City does not meet the pledge, but it will make the community more green and sustainability issues more cost effective. In order to become a Climate Smart Community the City must adopt all ten elements of the model resolution.

Councilwoman Killian made a motion, seconded by Councilwoman Brett the Council to approve the adoption of the Climate Smart Pledge with a modification made to the first clause (Element #1) of the model resolution:

**WHEREAS**, the City of Rye (hereinafter “local government”) believes that climate change poses a real and increasing threat to our local and global environments; and

**WHEREAS**, the effects of climate change will endanger our infrastructure, economy and livelihoods; harm our farms, orchards, and ecological communities, including native fish and wildlife populations; spread invasive species and exotic diseases; reduce drinking water supplies and recreational opportunities; and pose health threats to our citizens; and

**WHEREAS**, we believe that our response to climate change provides us with an unprecedented opportunity to save money, and to build livable, energy-independent and secure communities, vibrant innovation economies, healthy and safe schools, and resilient infrastructures; and

**WHEREAS**, we believe the scale of greenhouse gas (GHG) emissions reductions required for climate stabilization will require sustained and substantial efforts; and

**WHEREAS**, we believe that even if emissions were dramatically reduced today, communities would still be required to adapt to the effects of climate change for decades to come,

**IT IS HEREBY RESOLVED** that the City of Rye, in order to reduce greenhouse gas emissions and adapt to a changing climate, adopts the New York State Climate Smart Communities Pledge, which comprises the following ten elements:

1. Pledge to be a Climate Smart Community
2. Set Goals, Inventory Emissions, Plan for Climate Action
3. Decrease Community Energy Use
4. Increase Community Use of Renewable Energy
5. Realize Benefits of Recycling and Other Climate-Smart Solid Waste Management Practices
6. Reduce Greenhouse Gas Emissions Through Climate-Smart Land-Use Tools
7. Enhance Community Resilience and Prepare for the Effects of Climate Change
8. Support Development of a Green Innovation Economy

- 9. Inform and Inspire the Public
- 10. Commit to an Evolving Process of Climate Action

**NOW, THEREFORE, BE IT RESOLVED**, that a certified copy of this Resolution be forwarded to the New York State Department of Conservation.

ROLL CALL:

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

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

Robert Zahm, resident, reported that there are two intersections with dangerous sidewalks; corner of Locust Ave and Mead Pl. and Milton Rd. & Playland Parkway-south side on the right hand side of Milton Rd.

- 14. Bid Award for the Annual Street Resurfacing contract (Contract #2015-04)

Councilwoman Brett made a motion, seconded by Councilwoman Killian to adopt the following resolution;2

**RESOLVED** that Contract 2015-04, Annual Street Resurfacing, is hereby awarded to Bilotta Construction Corp, low bidder, in the amount of \$886,634.00.

ROLL CALL:

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

- 15. Consideration to amend the Resolution of acceptance for a grant from the New York State Department of Environmental Conservation for reimbursement for equipment purchased by the Department of Public Works

**WHEREAS**, the State of New York provides financial aid for municipal waste reduction and municipal recycling projects; and

**WHEREAS**, the City of Rye herein called the MUNICIPALITY, has examined and duly considered the applicable laws of the State of New York and the MUNICIPALITY

deems it to be in the public interest and benefit to file an application under these laws;  
and

**WHEREAS**, it is necessary that a Contract by and between THE PEOPLE OF THE STATE OF NEW YORK, herein called the STATE, and the MUNICIPALITY be executed for such STATE Aid;

**NOW, THEREFORE, BE IT RESOLVED** by the Rye City Council:

1. That the filing of an application in the form required by the State of New York in conformity with the applicable laws of the State of New York including all understanding and assurances contained in said application is hereby authorized.
2. That Ryan X. Coyne is directed and authorized as the official representative of the MUNICIPALITY to act in connection with the application and to provide such additional information as may be required and to sign the resulting contract if said application is approved by the STATE;
3. That the MUNICIPALITY agrees that it will fund its portion of the cost of said Municipal Waste Reduction and Recycling Project.
4. That the MUNICIPALITY or MUNICIPALITIES set forth their respective responsibilities by attached joint resolution relative to a joint Municipal Waste Reduction and/or Recycling Project.
5. That this resolution shall take effect immediately.

ROLL CALL:

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

16. Authorization for the City Manager to enter into an Agreement with the County of Westchester for 2015-2016 Prisoner Transportation Services

Councilwoman Brett 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 an Intermunicipal Agreement with the County of Westchester for 2015-2016 Prisoner Transportation Services.

ROLL CALL:

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

17. Authorization for the City Manager to enter into an Inter-municipal Agreement with Westchester County for the Mutual Aid and Rapid Response Plan for the Police Departments of Westchester County

This item was deferred.

18. Designation of one member to the Boat Basin Nominating Committee

Mayor Sack made a motion, seconded by Councilwoman Brett, to appoint Benjamin Poole (Commission member not standing for re-election) and Alan Caminiti (Permit holder elected to Nominating Committee in last election August 2014) to the Boat Basin Nominating Committee.

19. Two appointments to the Rye Senior Advocacy Committee for a three-year term expiring January 1, 2018, by the Mayor with Council approval

Mayor Sack made a motion and unanimously carried to appoint Edward Matthews and Jane O'Sullivan to the Rye Senior Advocacy Committee for three-year terms expiring January 1, 2018.

20. Consideration of request for permission to close a section of Purchase Street for the 63<sup>rd</sup> annual celebration of the Halloween Window Painting Contest

Councilman McCartney made a motion, seconded by Councilwoman Brett and unanimously carried to adopt the following resolution.

**RESOLVED**, the City Council hereby approves the request of the Recreation Department for permission to close a section of Purchase Street from the Square House to Purdy Avenue for the 63rd Annual Halloween Window Painting Contest on Sunday October 18, 2015 (rain date October 25) from 8:00 A.M. to 3:00 P.M.

21. Consideration of a request by the Leukemia and Lymphoma Society for use of city streets on Saturday, November 1, 2014 from 5:00 p.m. to 9:00 p.m. for their annual *Light the Night Walk* event

Councilwoman Brett made a motion, seconded by Councilman McCartney and unanimously carried to adopt the following resolution.

**RESOLVED**, the City Council hereby approves the request of the Leukemia and Lymphoma Society to use city streets for the annual *Light the Night Walk* to be held at Playland on Saturday, November 7, 2015 from 5:00 p.m. to 9:00 p.m.

22. Consideration of a request by Longford's Ice Cream for the use of City streets for their 20<sup>th</sup> Anniversary celebration on Sunday, August 6, 2015 from 12:00 p.m. to 5:00 p.m.

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

**RESOLVED**, the City Council hereby approves the request of Longford's Ice Cream for use of City streets for their 20<sup>th</sup> Anniversary celebration on Sunday, August 6, 2015 from 12:00 p.m. to 5:00 p.m.

23. Miscellaneous communications and reports

There was nothing reported under this agenda item.

24. New Business

City Clerk position has been advertised with a deadline for applications on Friday, July 10, 2015. The City will do a search for the Police Commissioner position later this year.

Request by Mayor Sack to Corporation Counsel to provide an update on the Beaver Swamp Litigation

25. Adjournment

There being no further business to discuss Mayor Sack made a motion, seconded by Councilman McCartney and unanimously carried, to adjourn the meeting at 1:06 a.m.

Respectfully submitted

Diane C. Moore  
Deputy City Clerk

