

APPROVED MINUTES of the Regular Meeting of
the City Council of the City of Rye held in City Hall
on August 5, 2015 at 7:30 P.M.

PRESENT:

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

ABSENT: LAURA BRETT

Mayor Sack made a motion, seconded by Councilman Mecca and unanimously carried to adjourn into executive session to discuss a personnel matter at 6:21 p.m. The regular meeting convened 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 Corporation Counsel to call the roll; a quorum was present to conduct official city business.

3. General Announcements by the Council

Mayor Sack announced the sad news the Ellen “Sis” D’Angelo, longtime Rye resident and Rye icon passed away late Sunday.

Mayor Sack announced that the Rye Fire Department is having a free CPR class in honor of 9/11 on September 11, 2015. Sign up is on the union website Local 2029.com. Also, there will be a September 11th ceremony at dusk next to the Firehouse and a candlelight walk to the gazebo on the Village Green to read the names of Rye residents who perished on 9/11. He added that the City of Rye has partnered with Volunteer New York to provide other volunteer opportunities after school for parents and children on the Village Green or Council Chambers.

Councilman Mecca reported that the Rye Merchants held their annual sidewalk sales and thanked all who supported it.

Councilman McCartney reported that the Rye Golf Club will hold “Lobster Nights” on Thursdays, “Mexican Night” on August 19, 2015 and a cardboard “Regatta” for the children on

August 16, 2015. The Membership Office is open every day 9:00 to 5:00 pm. Rye Recreation camps are doing well, however some spaces are still available for the specialty camps. He also thanked everyone involved in the “Kirby Golf Outing” whose proceeds are donated to the Rye Seniors.

Councilman Slack reported that there is a new episode of Rye Views hosted by Paula Fung and Mary Hannon. They can be viewed at RyeTV.org.

4. Draft unapproved minutes of the regular meeting of the City Council held July 8, 2015.

This item was deferred to the September 16, 2015 City Council meeting.

5. Issues Update/Old Business.

Rye Golf Club- Councilman McCartney provided an update with regard to the damaged greens due to the use of a chemical product that was contaminated. The greens have been closed since June 1, 2015. The target reopen date is Labor Day with the approval of a USGA consultant. A full claim for damages has been filed with the manufacturer’s insurance company. The membership has expressed upset and concern about the situation. If and when there is a recovery from the insurance carrier, the City will look at what can be done for the membership.

Deer Management Program- Janice Seitz, Deer Study Group, reported on the use of two Metric Tracking Methods: Deer Count/Resident Reporting and Landscape analysis to establish baseline data. The Deer Study Group made a recommendation that the City hire the assistance of a professional consultant such as Cornell University, Dr. Bern Blossey or Hank Birdsall, Westchester County biologist, who has a private consulting firm. The scientific measurement for the collection of the data is conducted over time in various locations, both public and private, and requires an expert naturalist or biologist. Mayor Sack added that the City needs an objective way to determine whether the City has or doesn’t have a deer problem.

7. Continuation of 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.

Jonathan Kraut, partner with Harfenist, Kraut & Perlstein, LLP, addressed the Council with an interim status report regarding Council questions and comments from the previous meeting.

- Updated copy of the Local Law was submitted to the Council which included changes to; the minimum side yard and rear yard setbacks; the minimum parking requirements to 1.5 as a ratio to unit; maximum building coverage was inserted at

35% and a section was added to include a ten-foot landscape buffer around the perimeter which was recommended by the Planning Commission.

- Traffic pattern (trip generation) will be less than a fully occupied office building.
- Improvements to traffic pattern include three possibilities: opening the emergency access drive on main road,; right turn only lane on the Playland Access road; and a left hand turn at the entrance way from Boston Post Rd to Playland Parkway (eastbound) because appropriate sightlines may exist to incorporate a left-hand turning movement across Playland Parkway.
- Subsurface quantification-grading and rock removal. Samples taken indicate that weathered rock exists at the location and will require rock removal. Details will follow in next the next submission to the Council.

Mayor Sack said he would like to have a public site walk and asked that the building's boundaries be staked out as it is currently proposed. He noted that the proposed building is actually smaller than what is allowed in this zone, so the City would like to see how big it will be as it is planned now and how much more could be built at a future date. The Council may want to consider reducing the Floor Area Ratio in that zone. Mayor Sack asked Mr. Kraut to work with the City Manager's office to find a date to notice a public hearing for the site walk.

Comments from the public:

John Mayo Smith-Proposed zoning change may have disastrous effect and the City should have a valid Master Plan.

Jesus Cantalapedra –Comments as follows:

- New HUD regulations may impose the inclusion of low income housing units. Mayor Sack stated that this proposed building is not being funded by HUD and does not apply to this project.
- These HUD rules and regulations apply to any locality that has accepted HUD money in the past. Mayor Sack said it may apply to the current NY Rising Grant being considered (flood mitigation funding) but may not apply to this project.
- Cautioned that the 18-year old minimum age restriction, if found to be discriminatory to seniors, could be challenged, which could pose a problem with school funding. Mayor Sack said by definition this proposed zone would be for people of a certain age and for people who do not have school age children. This is a senior housing zone.
- HUD could challenge the new zone.
- With regard to traffic safety and population density; he said possible trip rates generated by the project could actually be more than those of a fully occupied office building.
- Rates for vacant office space in Westchester are about 20% but are lower in Rye: (single digits/low teens) for the past couple of years and rents have increased since 2010.

The City Manager suggested that Mr. Cantalapiedra email his comments to the City so that they can be made part of the record and the Council could have answers for him at the next meeting. Councilman Slack said it would be helpful if he emailed his traffic studies information (Report on Active Adult 55 Plus Community Trip Generation Rates prepared for the Delaware Center for Transportation in 2006) and also his information regarding 2010 rents to the City Manager who will distribute them to the Council.

Robert van Wateren

- Concern with regard to traffic issues; entrance to the proposed building is too close to the Old Post Rd. Right turn lane proposal maybe helpful, but left hand turn is very difficult.
- Letter from attorneys discussed a 10-ft buffer which had only two pine trees, and suggested that a lush buffer be required.

Mayor Sack made a motion, seconded by Councilman Mecca and unanimously carried to continue the public hearing to the September 16, 2015 meeting.

6. Continuation of Public Hearing to amend local law Chapter 133, "Noise", of the Rye City Code regarding regulations on mechanical rock removal.

Mayor Sack said this is the third meeting with regard to this proposed local law and he has received a great deal of feedback. Rock chipping is a "hot" topic and asked that people continue to listen to one another and not talk past one another. The Council has a responsibility to listening to all opinions.

There was a lengthy discussion. Some of the public comments are as follows:

- Rock chipping has been an assault and violation of property rights
- Support of proposed local law proposed without wordsmithing loopholes
- Council urged to preserve the character of the community, protect the older homes from teardowns and the quality of life
- Homes should be designed appropriately for the land on which it is being built
- 30 day duration is more than ample time for rock chipping
- No new rock chipping permits should be issued for the same location within the next 18 months which will prevent builders from breaking projects into phases or add projects
- Request that neighbors be notified 10 days prior within a designated radius preferably ½ mile area of the site and that chipping will cease at 3:30 PM, no chipping near schools on testing days
- One chipper and no rock crushing per site
- Implement fines, stop work orders and criminal penalties such as jail for builders who fail to comply
- Property values have risen because Rye is a desirable community to live in and a natural consequence of this is development. If the amount of rock

chipping is limited; house size is reduced and taxpayers could be burdened with a higher tax bill. Also, property values of the current homeowners, who eventually sell their homes, may be somewhat diminished.

- Council asked to balance issues of residents and builders and consider reasonable accommodations: such as using work days as opposed to calendar days and allowing for extensions of permits based on need.
- Long term exposure of certain levels of noise level creates health issues for adults and children.
- Housing stock is almost 98.7% developed and as housing stock matures it will be redevelop. Chipping has reached a crescendo, and some restrictions should be put into place. Builders as a ad hoc group met with the Rock Study Group to ascertain what can be done to achieve the goals of their costumers and within the confines of the proposed law.
- Suggestion that developers supply noise cancelling headphones for people living within a certain distance of the rock chipping site.
- Dissatisfaction that decibel levels are not included in the proposed law.
- Concern that multiple chipping projects could occur in the same area which could potentially extend rock chipping for months in particular locations.
- Question as to whether there is really a need for full basements and pools built in solid rock locations. The incentive is to have a big basement because it is not taxed and is not part of the square footage. These points should be examined.
- Question as to whether builders are be given the same weight than the resident's quality of life. Builders can still build within the restrictions or build in other less restrictive communities.
- Some of the enforcement with regard to rock chipping is complaint-based.
- Request for a 3:30 PM deadline to be added to the moratorium.
- Preserving older homes maintains the character of the community.

Comments from Anthony Cassano on behalf of the builders:

- Inquiry as to why the Building Department would be enforcing the law as oppose to the Police. The Mayor and City Manager said both the departments will be enforcing the proposed law.
- Builders still struggling with the 30 calendar day (22 work days) restriction because there are unforeseen circumstances that could develop, and if the proposed law is change to permit 30 work days additional tracking would be helpful to the Building and the Police Departments.
- Request for the existing website registry to be enhanced to include additional data such as tracking work days. Request that the Council look into the costs to make these additions to the website.
- Builders would like the opportunity to gather data before Council makes a decision with regard to the duration of rock chipping per project.

Mayor Sack made the observation during the lengthy discussion that most of the public has acknowledged that chipping should be allowed. The discussion is about what should be permitted and what should be restricted.

Mayor Sack said that he initially asked the Rock Chipping Study group to give recommendations, but he redirected them to vet all issues. Councilman Slack clarified that the committee worked hard and had robust conversations with regard to the back and forth that is being discussed at this time. At the end the group coalesced around certain recommendations, but they did not have a role in drafting the legislation. The intention of the legislation is compromise.

Councilman Mecca made a motion, seconded by Councilwoman Killian, and carried unanimously to continue the public hearing at the September 16, 2015 meeting.

8. Discussion of the Inter-municipal Agreement with Westchester County for the monitoring of inflow and infiltration as part of the Westchester County Sewer District to comply with the schedule in the Long Island Sound Flow Monitoring Report.

City Manager Serrano explained that Westchester County has notified all municipalities that requirements are being imposed by New York State, the DEC and the EPA with regard to inflows of the water from sewer lines and sewerage treatment plants along Long Island Sound. The amounts of overflow into the Sound are above the requirements of the State. Municipalities are being required to control the amount of inflow of illegal connections into the sewerage treatment plants or broken pipes.

The first phase of this project requires the City to hire an engineer to create a map of all sewer lines, including age of lines and a report demonstrating the methods to be used to collect this information. Two possible options are to use a camera in each line or perform smoke tests. The second phase requires the communities to make all necessary repairs to be funded by the taxpayers. Additionally the State would like each household, prior to a sale, have a licensed plumber certify that there are no illegal connections and to have each lateral line connecting to the sewer line be examined through the use of cameras prior to the sale at the homeowner's expense. The City will be meeting with the Westchester County and the other municipalities impacted by this mandate to discuss a timeline and estimate of costs. The City is being asked by the State to adopt a resolution mandating these inspections. Potential lawsuits/and or the imposition of fines could be the result of not passing this resolution as the State has instructed the County to sue individual municipalities. Mayor Sack said there are limits to what the taxpayers can afford. It was noted that the organization "Save the Sound" has already warned the City of a future lawsuit. City Manager Serrano, explained that these costs will not be absorbed into the County Sewer tax, and the burden of the costs fall strictly on the individual communities. Rye has a minimum of two sewer districts which include pump stations. These pump stations could be broken into pump station districts and the people benefitting from them would pay the taxes. Other municipalities have similar districts: Port Chester applied to the PSE to create a sewer district and paid United Water to provide the necessary services so now they have a separate sewer district to pay for these services. Peekskill created their own water and sewer department and taxpayers are sent a bill for their water usage rather than pay a tax.

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

Doug Carey announced the 23rd Annual Summerfest will be held at Rye Recreation Park on September 6, 2015, 3:00 PM to 7:00 PM

10. Adoption of the 2015/2016 tax levy and tax rate for the Rye Neck Union Free School District.

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

WHEREAS, the Rye Neck Union Free School District (District) has certified to the City of Rye Comptroller taxes in the amount of \$11,937,087 to be raised on property within the District located in the City of Rye, with established tax rates of \$879.285848 per \$1,000 of taxable assessed value on homestead property and \$1,137.207415 per \$1,000 taxable assessed value on non-homestead property, for the fiscal year beginning July 1, 2015 and ending June 30, 2016, now, therefore, be it

RESOLVED, that in accordance with the provisions of the City Charter, the City Comptroller is commanded to levy and collect said taxes, subject to any further amendments or approvals required by the Rye Neck Union Free School District.

ROLL CALL:

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

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

Councilman Mecca made a motion, seconded by Councilman McCartney to adopt the following resolution:

RESOLVED, to authorize the City Manager to enter into a five-year Inter-municipal Agreement with the County For the Mutual Aid and Rapid Response Plan for the Police Departments of Westchester County commencing on July 31, 2015 through July 30, 2020.

ROLL CALL:

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

12. Miscellaneous communications and reports.

Mayor Sack said the New York Rising Funding item will be placed on the September 16, 2015 agenda

Mayor Sack reported that he, along with City Manager Serrano, met with Katie Glassberg, President of the Rye School District Board of Education, to discuss various school issues including the Cable TV Study Group and asked the City Manager to arrange a meeting after the school year begins.

Mayor Sack made a motion, seconded by Councilman Mecca and unanimously carried, to adjourn into executive session to discuss a personnel matter at 11:20 p.m. The regular meeting convened at 11:40 p.m.

13. New Business.

Mayor Sack announced that Corporation Counsel Kristen K. Wilson will be leaving Harris, Beach to form her own law firm. Rye will put out an RFP for new lawyers or law firms to submit proposals to serve as the City's Corporation Counsel/Legal Advisor. In the interim Mayor Sack asked Corporation Counsel Wilson to remain with the City and be authorized to execute an Interim Agreement with Ms. Wilson to remain as Rye's Corporation Counsel until a definitive choice has been made with regard to the results of the RFP. He thanked Harris Beach for their role with the City over the years. Additionally Councilman McCartney said that the Mayor needs to be authorized to extend any off retainer work that Harris Beach may continue to do on the City's behalf. Councilman Slack asked for a list of litigation being handled by the Corporation Counsel under her retainer and a list of litigation being handled off retainer by Harris Beach. He also requested that the authorization include the same economic terms the City currently has in place.

Mayor Sack made a motion, seconded by Councilman McCartney and unanimously carried to authorize the Mayor

RESOLVED, that the Mayor be authorize to enter into an Agreement with Kristen K. Wilson, Esq. to remain as Corporation Counsel until such time a final decision is made based on the result of the RFP proposal for a new lawyer or new law firm.

FURTHER RESOLVED, that the Mayor be authorized to extend any off retainer litigation currently being handled by the law firm Harris, Beach under the same economic terms of the current agreement.

14. Adjournment.

There being no further business, Councilman Mecca made a motion, seconded by Councilman McCartney to adjourn the meeting at 12:02 a.m.

Respectfully submitted,

Diane C. Moore
Deputy City Clerk