

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on September 16, 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

Councilman McCartney made a motion, seconded by Councilman Slack and unanimously carried to adjourn into executive session to discuss a personnel matter at 6:31 p.m. The regular meeting convened at 7:40 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. Recognition of Rye resident James McHugh for his first MGA title at the 98<sup>th</sup> Met Junior Golf Championship.

Mayor Sack congratulated James McHugh for winning his first Metropolitan Golf Association title at the 98<sup>th</sup> Met Junior Golf Championship. He noted that James played in his first tournament at age 5 and has achieved many accomplishments both on the golf course and off, in raising money for diabetes research. Councilman McCartney, Liaison to the Rye Golf Club, spoke about James' talent, his work ethic and that he was just a great kid. The Mayor and Councilman McCartney presented James McHugh with a proclamation.

4. General Announcements by the Council

City Manager Marcus Serrano said that he is proud to introduce the new City Clerk, Carolyn D'Andrea, who is an attorney and currently is the Deputy Corporation Counsel from the Village of Scarsdale. Carolyn is changing careers to become the City Clerk and is excited about her new position; she brings an air of energy and enthusiasm and stood out amongst the many

candidates who were interviewed for the City Clerk position. Carolyn introduced herself and thanked the Mayor and Council for their support.

Councilman Mecca reported that he attended the Chamber of Commerce Meeting where the City Manager was the speaker. There was a discussion at the meeting about using Playland as offsite parking for the downtown with a shuttle to transport people. Councilman Mecca also noted upcoming community events including the Rye Newcomers barbecue and *A Taste of Rye* sponsored by My Sister's Place. He reminded residents that the Farmer's Market is open every Sunday from 8 a.m. to 2:30 p.m.

Councilwoman Brett reminded everyone that train station parking renewal was ongoing and encouraged everyone to renew early; parking renewal is available online at the City website [www.ryeny.gov](http://www.ryeny.gov).

Councilwoman Killian noted that there will be a Consumer Solar Workshop at the Rye Free Reading Room on Tuesday, October 20<sup>th</sup> from 7 to 9 p.m. She offered good news that the Rye Drug and Alcohol Coalition received a \$75,000 mentor grant from the Federal Government to set up the program with the Westchester Drug and Alcohol Coalition acting as their mentor. Rye was one of 20 communities that received this funding.

Councilman McCartney reported that Recreation Halloween Window Painting sign-up had begun and only 500 teams can register. The Rye Seniors Club is back after summer hiatus and the Club offers many different activities so please join. He was pleased to note that the Rye Golf Club greens are back open and is almost back to normal. The Club Championship will be played on September 26, 27 and October 3 and 4.

Councilman Slack reported that he attended the RTV Committee meeting and noted that the Rye Town Park Concert Series is available to view online at [RyeTV.org](http://RyeTV.org).

Mayor Sack pointed out the pink bows attached to the dais and asked Lisa Dominici Faires to come to the podium and explain their significance (see Agenda Item #17).

5. Approval of the election of three new members to the Rye Fire Department.

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

**RESOLVED**, that the City Council of the City of Rye hereby approves the election of Kelvin Leong to the Milton Point Engine and Hose Company, and John Mayo-Smith and Patrick Kissell to the Fire Police Patrol Company as approved by the Board of Fire Wardens at their August meeting.

6. Draft unapproved minutes of the regular meetings of the City Council held July 8, 2015 and August 5, 2015, and the Presentation of the CIP held August 4, 2015.

Councilman Slack made a motion, seconded by Councilman McCartney and unanimously carried to approve the minutes of the regular meetings of the City Council held on July 8, 2015 and August 5, 2015, and the Presentation of the CIP held on August 4, 2015.

7. Issues Update/Old Business.

Mayor Sack reported that he attended a meeting that afternoon with the County Executive's Office in White Plains along with the City Manager, Assistant City Manager, Corporation Counsel, and other Municipalities on the I&I (Inflow and Infiltration) into the sanitary sewer lines. The County is under a consent decree to limit the flow to the County owned sewage treatment plant at Disbrow Park that City of Rye sewer lines feed into, among other sites. One contributing factor to the excess flow could be basement sump pumps that are illegally hooked up to the sanitary sewer line. The City will need to address how to deal with the I&I issue, including the funding of the necessary studies and remediation.

Mayor Sack also gave an update on the United Hospital development, noting that the Corporation Counsel had been successful in getting the Village of Port Chester to hold additional Public Hearing dates; the City retained a traffic consultant to review the DEIS and to examine the project's impact on the City of Rye. The City is concerned about the size and scale of the project and the impact on the neighborhood immediately adjacent to the project. The City of Rye is an interested party under the SEQR process and will continue to raise these issues. The City has met with the neighbors in the adjacent neighborhoods, is pleased that they are engaged in the process and are appreciative of the coordinated effort of these residents. The Mayor, the City Manager and the City's traffic consultant will be attending the workshop on traffic to be held by the Village of Port Chester on Monday, September 21<sup>st</sup>. The Mayor expressed his hope that the City would get the Village of Port Chester to address the impacts that the City is raising. The City will continue to provide updates as the process progresses.

Councilwoman Killian asked the City Manager to update the Council on the removal of rocks in the City's right of way at the next City Council Meeting.

Councilman McCartney spoke on the success of Lessings, Inc. at the Whitby Castle at Rye Golf Club which is positive as the City has a stake in their profits. Lessings revenues are strong; they will be hitting their goals and the City will be recovering the money they expected when they awarded the contract to Lessings.

- 7A. Resolution to amend the 2015 Adopted Fees and Charges for the Rye Golf Club Enterprise Fund.

Councilman McCartney explained that the Council had reduced guest fees and cart fees during the period when the greens were closed from June 1<sup>st</sup> to September 5<sup>th</sup>. He noted that the RGC greens have reopened, but since they are not fully back, that the discounted charge for guest fees should be discontinued but the reduced golf cart fees should remain in effect. RGC Manager Jim Buonaiuto and the City Manager are in agreement with these changes.

Unfortunately the RGC Commission did not discuss this at their last meeting, but the financial necessity of reinstating the fees and reducing the losses to the RGC are paramount so he asked the Council to amend the 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 an amendment to the 2015 Adopted Fees and Charges for the Rye Golf Club Enterprise Fund as follows: Guest fees are restored to their 2015 adopted fees; Golf Cart fees will remain at the reduced rate of \$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.

8. 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

This item was deferred to the October 7, 2015 City Council meeting.

9. 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.

This item was deferred to the October 7, 2015 City Council meeting.

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

Mayor Sack urged commentators to be respectful of one another and the Council, and to listen and appreciate opposing perspectives. He noted that there has been much discourse, not only at the public meetings, but in emails received by the Council that he read aloud. The Mayor asked for speakers who had not spoken at previous meetings to address the Council.

Members of the Rock Chipping Committee shared their views including:

*Al Vitiello* spoke about the purpose of the Committee and their process. He said that many items need further discussion specifically (1) limiting the number of machines, (2) prohibiting chipping after 3:30 p.m., (3) limiting the chipping to 30 days, noting that this does not take factors such as weather and maintenance into account, and (4) draft law includes utility companies and they need to be exempt.

*Andrew Dabinett* noted that the Committee engaged in a robust debate with input from members of the Rye building community, blasting engineers, conservationists, and noise experts. They developed a set of recommendations which became the basis for the draft law.

*Jim Hedges* said the moratorium provided valuable data including the number of projects that have taken place, the size of the sites, the scale of the projects, and the amount of rock to be removed. He noted that during the 90 days that the moratorium has been in effect, 25 projects have taken place. The focus needs to be not just on the duration of rock removal, but also on the method to remove rock. He praised the City website which details rock chipping/blasting projects because it provides transparency and notice to the community. He endorses the 30 calendar day limit; the time limit has incentivized the building community to determine the level of rock to be removed before the project begins. The moratorium is working and should remain.

*Jonathan Kraut*, representing a coalition of builders in Rye, many of whom grew up in Rye. The builders were in agreement that regulation of rock chipping is necessary and they expect the Council to enact legislation. He noted that rock chipping is a short term nuisance which brings long-term gain as homes are built in Rye. He suggested that the law to be passed should not be “heavy-footed” and must incorporate more data; no permits for the same property should be reduced from 18 months to 12; the workday should remain 9 to 5; the number of machines on site should not be limited to 1; the Zoning Board should hear waiver requests; rock removal limits should be under the direction of the Planning Board.

Members of the public who commented on rock chipping issues and the proposed law included: *David Cutner, C. Harrigan, Stanislav and Martha Kotyza, Louis Singer, Margaret Jahn, Lisa Degen, John Leonard, Meg Cameron, and Joe Lorono* who spoke about noise, dust, quality of life issues, health and safety issues, and the disruption to their enjoyment of their properties. While they varied on specifics in the proposed law they were in agreement that regulation is necessary and urged the Council to pass legislation.

Mayor Sack asked for input from the City Council on the proposed law:

*Councilman Mecca*, a member of the Rock Chipping Committee, spoke about their process and how deliberative they were in looking at all options. Any law must consider that building increases property values, generates fees, and increases the tax base yet unfettered chipping should not be allowed. He proposed that the City Council consider the following changes: 25 chipping days, not calendar days, to compensate for the shorter chipping day; a hard stop is unrealistic, Council should extend the calendar day stop or consider a return visit; restriction on a new permit for the same property should be 12 months, not 18; notice to property

owners should be a certification of mailing, not certified mail; construction should be allowed to start at 9:00 a.m. on a Saturday, not 10:00 a.m.; no more than 2 rock chipping machines can be used at the same time; utilities should be exempt as they present different needs and timeframes; the Appeals process should be handled by either the Board of Architectural Review or the City Manager and the extension should be limited to a number of days.

*Councilman Slack*, a member of the Rock Chipping Committee, thanked the Mayor for setting up the Study Group which engaged in a rigorous process, hard work, extensive diligence, robust discussion, tremendous thought and an open mind to compromise. He fully supports the proposed law which is balanced and enforceable, and needed by the community. The law has important features which are a benefit to the community: provides for a permitting process, provides notice to neighbors, shortens rock chipping hours, prohibits rock chipping near schools on testing days as well as on holidays, prevents on-site rock crushing, and limits rock chipping to 30 calendar days. The moratorium has shown that projects can be completed within the 30 calendar day limit. He noted that builders are doing their homework to ensure that they can complete their project within the 30 calendar day limit by doing borings or refraction surveys. Modifications to the proposed law should include: (1) waiver provision should allow for an additional 7 calendar day period if there are unforeseen issues that prevent a homeowner or builder from completing the project. Waivers would be submitted to the City Manager and would be posted on the City website; (2) Drilling and use of jackhammers should be outside the 30 calendar day limit but remain subject to the restriction on hours and not be allowed on Saturday; (3) two machines would be allowed on a site if needed. He urged his colleagues to support the proposed legislation, with the noted modifications, as it provides a comprehensive package of reasonable reforms that will benefit the community, help protect residents from excessive noise, encourage better planning by builders, provide for notice to neighbors, and still allow for significant development and new construction.

*Councilman McCartney* thanked the Rock Chipping Committee for their excellent work and Councilmembers Mecca and Slack for their leadership. He noted that the Council has held four Public Hearings to give thoughtful consideration to the issue and provide for all to engage in the conversation. Due to construction Park Avenue, he is aware that things happen during construction to change timelines, so he felt that builders should get some deference; the law does not distinguish between property rights of a homeowner or a builder. He supports the permit process and restriction of time to chip. Changes to the proposed law should include: the 30 calendar day is too restrictive and suggested a hybrid allowing for 30 chipping days within 45 calendar days; notice does not need to be by certified mail; more than one machine should be allowed; restriction on a new permit for the same property should be 12 months, not 18. He noted that he would like to see the law include wording that reasonable steps should be taken to mitigate dust.

*Councilwoman Killian* thanked the Rock Chipping Committee and noted that she cares about Rye and supports the passage of a law that protects it. Regarding the proposed law she is concerned about the 30 calendar day as it is too tight; two machines should be allowed on a site so the job can be completed as quickly as possible; supports the change in the definition of mechanical rock removal; supports utility exemptions; dust mitigation is vital and needs to be addressed; the City Manager should be the Appeals board; the overburdening of the Building Department and possibly the need for change which could be discussed during the Budget process.

*Councilwoman Brett* thanked the Mayor for taking a leadership role in drafting legislation as well as the Committee for their hard work. Regarding the proposed law: supports the 30-day

calendar regulation noting that it is better for residents and easier to be enforced by the Building Department; supports a waiver process that should be at the discretion of the City Manager and would be limited to 7 days; restriction on a new permit for the same property should be 18 months; two machines should be allowed which would increase the likelihood that projects will be completed timely; notice to neighbors should not be by certified mail; exceptions should be made for the utilities; the law should distinguish between boring and drilling.

*Councilwoman Bucci* feels that the Council needs to move quickly to pass legislation which is close to the proposed law; supports the 30-day calendar regulation as it is enforceable; supports the change in the definition of mechanical rock removal that allow for boring beforehand; can abide by the need for two machines; supports the restriction on a new permit for the same property should be 18 months; an addition for dust mitigation is necessary; utilities are complicated and should be addressed; supports an appeals process that should be at the discretion of the City Manager.

*Mayor Sack* reviewed the course of the Public Hearings and noted that there were points with extended applause from the audience; applause reflects the expression of a partisan perspective registering their approval for something said. The Council was not looking for applause but rather looks to address all points of view, not strictly partisan views, in seeking the best law for the City of Rye. He noted that his role as Mayor is to facilitate a resolution that the Council can agree upon, and that he would reach out to the Council on an individual basis to reach consensus. The Public Hearing would be continued and held open to the next meeting when the Mayor anticipated he could call a vote on this issue.

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

There were no residents who spoke under this Agenda item.

12. Consideration of a request for a waiver from the Rock Chipping Moratorium for the project located at 50 Cowles Avenue.

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

**RESOLVED**, that the City Council of the City of Rye hereby approves the request for a waiver from the Rock Chipping Moratorium to permit drilling, boring, grinding and jackhammering as part of non-excavating mechanical rock removal activities to demolish existing stairs, existing driveway and in preparation for the foundation wall for the project located at 50 Cowles Avenue.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Mecca

The Resolution was adopted by a 6-0 vote.

13. Authorization for City Council to seek an RFP for the City of Rye Corporation Counsel position.

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

**RESOLVED**, that the City Council of the City of Rye hereby authorizes the Mayor to draft an RFP to be provided to the City Council for review to seek a Corporation Counsel for the City of Rye.

14. Authorization for the City Manager to enter into an Inter-municipal Developer Agreement with Westchester County and Pawling Holdings, LLC for the City to construct the North Street sewer line and other on-site infrastructure improvements for the Theodore Fremd Avenue and North Street affordable senior housing project.

This item was deferred to a future City Council meeting.

15. Resolution to authorize the addition of Customers Bank and People's United Bank as authorized depositories of the City of Rye.

Councilwoman Brett 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 addition of Customers Bank and People's United Bank as authorized depositories of the City of Rye.

**ROLL CALL:**

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

NAYS: None

ABSENT: Councilman Mecca

The Resolution was adopted by a 6-0 vote.

16. Consideration for the City Council to adopt Youth Sports Policies, Guidelines and Fees for the City of Rye Recreation Department.

This item was deferred to a future City Council meeting.

17. Consideration of a request by the Sole Ryeders & Friends and the Rye High School Breast Cancer Awareness Club to have a TieTheTownPink breast cancer awareness campaign in the City of Rye during the month of October, 2015.

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 approves the request of the Sole

Ryders & Friends and the Rye High School Breast Cancer Awareness Club to put ribbons on trees and lampposts on Purchase Street and along Boston Post Road on the way to the Middle School/High School as part of a TieTheTownPink breast cancer awareness campaign in the City of Rye during the month of October 2015.

18. Three appointments to the Boat Basin Commission, by the Council, for two-year terms expiring January 1, 2018 and the designation of one member to the Boat Basin Nominating Committee.

Councilwoman Brett made a motion, seconded by Councilwoman Killian to appoint Alan Caminiti, Robert Rispoli, and George Szczerba to the Boat Basin Commission for two year terms expiring on January 1, 2018 and to appoint Frank Mangiamele to the 2015 Boat Basin Nominating Committee.

ROLL CALL:

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

NAYS: None

ABSENT: Councilman Mecca

The Resolution was adopted by a 6-0 vote.

19. Miscellaneous communications and reports.

There was nothing reported under this Agenda item.

20. New Business.

There was nothing reported under this Agenda item.

21. Adjournment.

There being no further business, Councilwoman Brett made a motion, seconded by Councilwoman Bucci to adjourn the meeting at 11:45 p.m.

Respectfully submitted,

Eleanor M. Militana  
Assistant City Manager