

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held in City Hall on October 7, 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

Councilwoman Brett 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. Councilwoman Brett made a motion, seconded by Councilman Slack and unanimously carried, to adjourn the meeting at 7:32 p.m. The regular meeting convened at 7:35 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 Manager to call the roll; a quorum was present to conduct official city business.

3. General Announcements by the Council

Councilman Mecca reported that he attended the Boat Basin Meeting and that boat slips were available. The Chamber of Commerce Meeting was held that morning: Judge Latwin gave a presentation on what the Rye City Court does; the City Manager presented on the new configuration for Smith, Elm and Purchase streets. He noted that the Chamber expressed interest in using the snow field as overflow parking for the merchants and asked that they be part of the conversation moving forward. He reminded residents that the Farmer's Market is open every Sunday until December from 8 a.m. to 2:30 p.m. Two new stores are opening including Rosemary's Vine and Mrs. Greens. Upcoming events include the Edith Read Fall Fest on October 17th from noon to five p.m. The Fire Department will be having an Open House on Sunday, October 11th as part of Fire Prevention Week at the Locust Avenue Firehouse from 10:00 am to 2:00 pm. The professional firefighters are selling pink t-shirts to raise money for breast cancer; they are available at the Locust Avenue Firehouse.

Councilman McCartney reported that the Rye Harrison game would be held on Saturday, October 10th at Harrison at 11:00 a.m. The RGC course has been open for five weeks and is improving. Night Life golf will be held on Thursday, October 8th at 7:00 p.m.; the closing scramble is on October 18th. He was pleased to note that the pool program for Rye Recreation seniors was very successful including 48 visits from Recreation members. Rye Recreation was in full swing with many events listed on the Recreation website. He asked for all user groups to weigh in on the new proposed Field Use Policy, noting that it will be discussed at a Recreation Commission meeting on October 29th.

Mayor Sack called Liz Northshield and Ann Moller to the podium to present the Blue Star Memorial which was installed at Rye City Hall. Ms. Northshield presented the City Council and the City with the Blue Star Memorial By-Way Marker on behalf of the Ceres Garden Club. They thanked the Council for their support and approval, Joe and Joe, Jr. of Lorono Construction for their generous donation and delivery of the stone, and Joe Alfredo of Alfredo Landscaping for the installation of the plaque. The Blue Star Memorial will stand as a way for everyone to say thank you to all members of the armed services, past, present and future.

4. Draft unapproved minutes of the regular meeting of the City Council held September 16, 2015.

Councilwoman Brett made a motion, seconded by Councilwoman Killian and unanimously carried to approve the minutes of the regular meeting of the City Council held on September 16, 2015.

5. Issues Update/Old Business.

Mayor Sack referred to an article in one of the local newspapers regarding the Rye Golf Club that included allegations made by the RGC Commission Chairman about purchasing practices. He directed the City Manager to conduct an investigation into the matter and outside counsel has been retained. He asked that the City Manager report back to the City Council when the investigation is completed.

Mayor Sack also gave an update on the United Hospital development, noting that the Public Hearings continued and that the City Staff had a meeting with the NYSDOT which was productive. He noted that one of the things discussed, and a way to mitigate traffic, is to add ramps to the highways instead of traffic circling through Rye. He noted that two of the biggest highways, 95 and I287, intersect at Rye; we are asking the State to identify this change as a regional issue. The Mayor also appeared at a Community panel in Port Chester that shares an interest in making sure the Starwood project is done in a correct and manageable way. He suggested that Rye and Port Chester's concern about traffic are very similar. The Mayor addressed the overlay district as the most significant as it has the most impact; it is 50 acres which is three times the size of the United Hospital site. A Port Chester Board member indicated that the overlay may be removed; he noted that the City has the ability to file a lawsuit. While that is not something that the City wants or prefers, they will do what they have to if the overlay is not removed. The City will continue to provide updates as the process progresses.

Councilwoman Brett provided an update on the building where the Smoke Shop is located. The site plan was approved by the Planning Commission whose scope of review regards the use of the building; the new use of the building is the apartments located on the second and third floors. The building is being renovated not torn down; any changes will be reviewed by the Board of Architectural Review. The Smoke Shop continuing as a tenant is an issue for the landlord. The City Council incentivized the landlord to keep the Smoke Shop as a tenant but the landlord did not avail themselves of that option. The building will be preserved but the aesthetic issue of the building will be reviewed by the BAR.

Councilman McCartney spoke about the claim submitted to TKI regarding the damages to the RGC greens. A meeting was held with TKI and negotiations are underway.

Mayor Sack announced that Mark Blanchard of the firm Blanchard and Wilson would be filling in for Corporation Counsel Kristen Wilson.

Councilwoman Killian reminded everyone that there would be a Consumer Solar Workshop at the Rye Free Reading Room on Tuesday, October 20th from 7:00 to 9:00 p.m.

6. 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

Councilwoman Brett thanked the NY Rising Committee for their hard work in identifying flood mitigation projects eligible for this grant. An important part of the Council's responsibility is to determine what accepting the grant money means to the City, noting that flood mitigation is of paramount importance. She also thanked the staff of the Governor's Office of Storm Recovery for providing the City with a thorough document outlining the City's obligation to the State and to HUD if the funding is accepted.

Mayor Sack agreed that the NY Rising Committee should be commended for their hard work; that flood mitigation is an incredible problem in Rye that needs to be addressed but that the Subrecipient Agreement is wrong for the City of Rye. The Agreement sets rules that the City must agree to, some existing, some to be established, regarding the grant funding. The City would be obligated to HUD's rule if the money is accepted and the Mayor is not prepared to expose the City to HUD's criteria. He noted that he would not be voting for the agreement.

Councilman McCartney indicated that he was on the conference call with the State and agreed that the City needs to balance the need for flood mitigation money with the risk to do everything that HUD says. The wording in the memo from the State gives him peace of mind that we can accept the funding to improve the City's flood mitigation problem.

Councilwoman Killian spoke about the job of the City Council to research the obligations associated with accepting the NY Rising funding. She noted that other communities who had previously signed the NY Rising agreement, did so prior to July 2015 when HUD came out with their final AFFH rules so there was more onus on this Council to look at the impact of this agreement. She indicated that she would be voting to accept the funding.

Councilman Slack raised a question regarding the agreement, where the City is a subrecipient with the State, not HUD: does the agreement allow HUD to directly enforce any

breaches of the agreement or would the City's privity be with the State. Mark Blanchard said our privity is with the State who would be acting as an agent of HUD. HUD would enforce against the State in terms of how the grant would be administered but noted that it would not be impossible for HUD to intervene. Councilman Slack pointed out that the City has accepted HUD grant monies in the past and sought to confirm that since the City previously took HUD money, hasn't that already committed the City to the same type of agreements and conditions before the Council presently. Mark Blanchard noted that the City is not agreeing in perpetuity to the requirements of the grants, the grants have a lifespan connected to (a) the expenditure of the money or (b) proving that the money was expended properly. The Mayor noted the language of those agreements from over twenty years ago is not the same as what is currently before the Council and these grants are for considerably more money.

Speakers on the NY Rising funding included:

Bernie Althoff, co-Chair of the NY Rising Committee and Chair of the Rye Flood Advisory Committee, said that the NY Rising Committee was tasked with gathering data and identifying flood mitigation projects, noting that they cited work by the engineering firm Parsons and Brinckerhoff. They identified four projects including (1) stopping water at the airport, (2) reprogramming the Bowman Avenue Sluice Gate, (3) expanding the capacity of the upper pond above the dam, and (4) implement changes on Milton Road to reduce flooding. He noted that the Council had directed the Rye Flood Committee to obtain grant funding. He said if this funding is not accepted that flood mitigation efforts in Rye will be damaged for ten years. The letter from the State provides protection to the City and notes that it does not increase the City's exposure to HUD by accepting this funding. He urged the Council to accept the funding to move the flood mitigation projects forward.

Holly Kennedy, co-Chair of the NY Rising Committee and member of the Rye Flood Advisory Committee, extended her appreciation to the Council for their efforts on flood mitigation. The NY Rising Committee strongly recommends that the funding be accepted, especially given the assurances by the NY Rising attorney that Rye would not be subject to additional HUD fair housing requirements. The risk to the City is minimal given that the State would be beholden to HUD, and that the chosen flood mitigation are infrastructure projects. She reviewed physical and financial damage from recent storms. Flood mitigation is extremely expensive and requires collaboration with different levels of government for upstream mitigation that will help flooding in Rye. She urged the Council to accept the funding as being in the best interest of Rye taxpayers to address the risk of future flooding in Rye.

Greg Howells, member of the NY Rising Committee and director of the YMCA, spoke about the damage to the YMCA in previous storms and the mitigation steps that they have already taken, noting that those efforts are still not enough given the amount of flooding in Rye. He felt that the acceptance of the funding not only provides help now, but assist the City in leveraging additional larger grants in the future with help from the Governor's office.

Pat Levine, former Councilwoman, spoke on behalf of the Milton Harbor House noting that the NY Rising funding is a unique opportunity and hopes that the Council accepts the funding.

Carolina Johnson thanked the Council for their due diligence but said that even if the Council does not accept the funding it will not prevent HUD from coming after the City.

Mayor Sack said accepting the funding would go against a tradition in Rye of not letting other entities tell the City what to do. He cited the example of the Nursery Field where Westchester County was willing to provide funding, but with the proviso that they would be able to use the field for their own use; Rye declined the County funding. It is evident in looking at White Plains that HUD has engaged in serious protracted litigation with Westchester County over the same issue. In exchange for three million dollars we would be giving up Rye's right to govern itself and not have to take orders from another layer of government. He stated that he would not be signing the agreement.

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

RESOLVED, that the City Council authorize the acceptance of funding from the New York Rising Community Reconstruction Program including the necessary agreements and resolutions and authorize the City Manager to enter into those agreements.

ROLL CALL:

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

The Resolution was adopted by a 6-1 vote.

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.

This item was deferred to the October 21, 2015 City Council meeting.

Councilwoman Brett made a motion, seconded by Councilman McCartney and unanimously carried to continue the Public Hearing to October 21, 2015.

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

Mayor Sack outlined revisions to the original draft local law including: a more precise definition of mechanical rock excavation, dust mitigation requirements, changed the consecutive calendar day limit to 38 days, eliminated the certified mail requirement, added a one time 7-day calendar day waiver at the discretion of the City Manager, two chipping machines can be used simultaneously, and added a more precise definition of the utilities exemption. These revisions were the result of public comment and City Council feedback. Additionally, the Council added some clarifications: definition of the term "unexpected circumstances", certification by the property owner that any mechanical rock excavation can be completed within the allowed 38 days, a copy of the certificate of mailing must be supplied to the Building Department prior to the commencement of chipping or blasting, a property owner who applied for a permit and complied with the provisions of the law may apply for an additional 7-day waiver, in addition to the original 38 days, from the City Manager due to unexpected circumstances. The Mayor said that the changes to the law are significant and historic as previously there were no restrictions on rock chipping.

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

Councilwoman Brett spoke of the lengthy and thorough process which resulted in a chipping restriction which provides certainty to neighbors surrounding chipping projects. It requires builders and developers to better plan their projects. The Council reached a consensus by working together and listening to those who engaged in the Public Hearings.

Councilman Mecca noted that the Council listened to all the comments from the public and the Rock Chipping group and felt the law before them was a good compromise.

Councilman Slack thanked the Rock Chipping Study Group for their hard work, extensive diligence, robust discussion, tremendous thought and ultimately an open mind. Those recommendations formed the basis for the original proposed law and for the bill currently before the Council. He thanked Richard Mecca for his leadership and work on the Study Group noting that his wisdom and balance helped to bring the recommendations of the Study Group to life as part of the proposed law. He was pleased to note that the proposed law is still based on the recommendations of the Study Group originally presented at the June 10th Council Meeting with little deviation. The eight features regarding rock chipping include: duration, allowed hours, required permit, notice to neighbors, holiday restrictions, school testing restrictions, number of chippers/hammers, and restrictions on rock crushing on site. He thanked the Council for coming to a consensus without being disagreeable, especially on a difficult issue with strong differences of opinion. The legislation will greatly benefit the community as Rye will have the most comprehensive set of rock chipping regulations in Westchester, and perhaps all of the State. No other community has addressed the issue of rock chipping in a comprehensive or thoughtful way. Rye is once again a leader, not a follower.

Councilman McCartney thanked the Rock Chipping Group as well as all those who spoke up during the Public Hearings. The Council sought to balance all the issues and comments in arriving at a compromise encompassing all these factors. He urged everyone to look dispassionately at the proposed law and recognize how much of what the Rock Chipping Group outlined was included and that it is a fair compromise.

Councilwoman Bucci noted that the compromise was difficult to reach and thanked the Council for their hard work. She thanked the Rock Chipping Committee for their hard work and for the community engagement on this issue.

Councilwoman Killian thanked the Council for being gracious and respectful despite their disagreements, noting that there are many other items outstanding in the community that the Council has been thinking about amidst the rock chipping discussion. She thanked all those who participated in the Public Hearings as it helped the Council frame the issue. She also hoped that there would be some healing in the community so everyone could move forward. She was happy that dust mitigation was included but indicated that the issue of dust from stones being installed on houses may not be addressed by this law. More research may be necessary with input from the Building Department to revisit this item. Extending the allowable days to chip in this proposed law addresses the unintended consequence of pushing construction projects to the time with better weather. The proposed law addresses this and she is comfortable with the draft law reached by the Council.

Jonathan Kraut, representing a coalition of builders in Rye, asked the Council to consider two changes to the proposed law: (1) that days that are declared states of emergency for inclement weather not be counted in allowable chipping days and (2) storm water utility connections should also be exempt. He urged the Council to note that they were about to adopt the most restrictive law not only in Westchester County but New York State; the builders would

like the law to be more liberal. He commended the Council for their handling of the issue. The City Council agreed to include the exemption for storm water utility connections.

Members of the public who commented on rock chipping issues and the proposed law included: *Lori Fontanes, Bob Zahm, Alan Clark, Sal Inguanti, and Nancy Collins*, who spoke about the process arriving at the proposed law, expanding the distance for notification to neighbors, publication of all extensions given by the City Manager along with the reason for the extension, the removal of the Thanksgiving and Christmas exclusions, and public health ramifications from allowing two chippers.

Councilwoman Brett made a motion, seconded by Councilman Mecca and unanimously carried to close the Public Hearing.

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

CITY OF RYE
LOCAL LAW NO. 6 2015

A local law to amend Chapter 133 “Noise” of the Code of the City of Rye by renaming and amending Section 8 as follows “Permit Required; Construction work, mechanical rock removal and blasting restrictions”; amending Section 133-9 “Penalties for Offenses” to increase the penalties, and amending Section 133-10 “Exempt Acts” to exempt certain entities from the requirements as follows:

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

Section 1: Chapter 133-8 “Permit Required; Construction work, mechanical rock removal and blasting restrictions:

A. Whenever used in this section, the following terms shall have the meanings indicated:

ROCK EXCAVATION PERMIT – A permit issued for rock excavation on a Subject Property.

SUBJECT PROPERTY – The lot for which a mechanical rock excavation permit or blasting permit pursuant to Chapter 98 is issued.

TESTING DAYS – A day when a school is administering a state or federally mandated test or a day when the school is administering an advanced placement test, PSAT, SAT, ACT, final examinations or other similar tests, as long as the school or district posts on their web site at the beginning of each school year such dates and provides such information at the beginning of the school year to the Building Department.

MECHANICAL ROCK EXCAVATION – Mechanical Rock Removal with the

use of a mechanical hammer or similar device, but excluding drilling or boring of holes, and excluding the removal of man-made structures such as concrete steps or driveways.

UNEXPECTED CIRCUMSTANCES – Circumstances unforeseen by the property owner including mechanical failure of a machine, unexpected conditions or inclement weather.

- B.** No Mechanical Rock Excavation or blasting may take place unless a permit is obtained. All permits shall identify the purpose for which the Rock Excavation Permit or blasting permit is being issued, the owner of the Subject Property, including any partners of any limited liability company, and the permitted duration of the Mechanical Rock Excavation or blasting. The application for a Mechanical Rock Excavation or blasting Permit shall include a certification by the property owner that the property owner has reasonably determined that any Mechanical Rock Excavation can be completed within the period in in subsection B(i) below.
- (i) Mechanical Rock Excavation and blasting shall be restricted to thirty (38) consecutive calendar days.
 - (ii) No new/additional Mechanical Rock Excavation Permit or blasting permit (see Chapter 98) shall be issued for the same Subject Property for 18 months from the date any previously issued permit expires.
- C.** No Mechanical Rock Excavation Permit or blasting permit shall be issued unless the Applicant has a dust mitigation plan approved by the Building Department. Such dust mitigation plan shall incorporate the best dust control practices including, but not limited to, a water spray system (air suppression or surface wetting). All dust mitigation plans shall include measures to control water runoff as a result of any water spray program.
- (i) Trucks and other vehicles used to transport particulate matter shall be covered and any particulate matter kept on site shall be sufficiently wetted or stored to prevent particulate matter from becoming airborne.
 - (ii) Portable hand water sprinklers or hose sprinklers are acceptable means of wetting for dust control. The water sprays or jets shall be designed to break the water stream into small droplets or otherwise to provide effective wetting.
 - (iii) Suitable drainage means shall be provided for the removal of water and sludge which drains from the operation.
 - (iv) Soil or debris piles shall be moistened if dust is being emitted from the piles due to prevailing winds and not from a momentary gust. Adequately secured tarps, plastic or other material may be required by the Building Department to further reduce dust emissions.

- D.** Upon receiving a Mechanical Rock Excavation Permit or blasting permit, any individual who intends to engage in Mechanical Rock Excavation or blasting 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. Upon such notification, the Subject Property will be listed on the City of Rye website showing the earliest commencement date and when the thirty-eight (38) day period ceases. Such notice shall be displayed in a visible location at the Subject Property.
- (i) In addition to notifying the City as required above, the individual must also notify the neighbors by sending out a public notification prepared by the Building Department. The applicant shall prepare a notification list, using the most current City of Rye Tax Maps and Tax Assessment Roll, showing the Tax Map sheet, block and lot number, the owner's name and owner's mailing address for each property located wholly or partially within 500 feet of the Subject Property. If a property on the public notification list is also listed as a cooperative or an apartment, the notice shall only be mailed to the property owner of record. These mailing requirements must be performed in accordance with the following requirements:
 - (ii) The mailing shall be limited solely to the public notice provided by the City Building Department.
 - (iii) The notice shall be mailed to all property owners by regular U.S. mail at a post office or official depository of the Postal Service, at least ten (10) days prior to the commencement of Mechanical Rock Excavation or blasting.
 - (iv) The individual must provide a copy of the certificate of mailing to the City Building Department prior to the commencement of any Mechanical Rock Excavation or blasting.
- E.** Construction work prohibited at certain hours and on certain days. No person shall engage in construction work earlier than 7:30 a.m. or later than 6:30 p.m., prevailing time, on weekdays; earlier than 10:00 a.m. or later than 5:00 p.m., prevailing time, on Saturdays; or at any hour on Sundays or any of the following holidays: New Year's Day, Presidents' Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Yom Kippur, Thanksgiving Day, Christmas Day and New Year's Day.
- F.** Notwithstanding any provision of §133-8 to the contrary, an individual may perform construction work him/herself on property on which such individual then resides as follows:
- (i) Weekdays, between 7:30 a.m. and 8:00 p.m.
 - (ii) Saturdays and Sundays (including holidays), between the hours of 10:00 a.m. and 8:00 p.m.

- G.** Mechanical Rock Removal, including Mechanical Rock Excavation, and blasting are prohibited at certain hours and on certain days. No person shall engage in Mechanical Rock Removal, including Mechanical Rock Excavation, as defined in Subsection A, or blasting operations using explosives as defined by § 98-40, within the City of Rye after the hour of 3:30 p.m. or before 9:00 a.m. on weekdays or at any time on Saturday and Sunday; or on any of the following holidays and time periods: New Year's Day, Presidents' Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Yom Kippur, Thanksgiving Day through Thanksgiving weekend and Christmas Day through New Year's Day except under authority of a special permit issued by the City Manager. In addition, Mechanical Rock Removal, including Mechanical Rock Excavation, and blasting will be prohibited within 500 feet of a school on Testing Days.
- H.** No person performing Mechanical Rock Removal shall have more than two machines and two hammers operating on the Subject Property at the same time. Rock crushing shall not be permitted on the Subject Property.
- I.** A property owner who has properly applied for and received a permit for Mechanical Rock Excavation or blasting, and has otherwise complied with the provisions of this law, may apply to the City Manager for an additional, one-time seven (7) calendar day waiver in addition to the thirty eight (38) days above, subject to all the other restrictions contained herein, to be granted at the discretion of the City Manager on a reasonable basis under a totality of the circumstances presented. If the waiver is granted, the additional seven (7) day period will be set by the City Manager, and the period will be listed on the City website.
- J.** A property owner who has properly applied for and received a permit for Mechanical Rock Excavation or blasting, and has otherwise complied with the provisions of this law, may apply to the City Manager for an additional, one-time seven (7) consecutive calendar day waiver in addition to the thirty-eight (38) days above, subject to all the other restrictions contained herein. The property owner shall have the burden of demonstrating to the City Manager that a waiver is warranted due to Unexpected Circumstances. The City Manager, at his sole discretion, can require documentation supporting Unexpected Circumstances including a certification that the Unexpected Circumstances prevented the completion of Mechanical Rock Excavation or blasting during this period. If the waiver is granted the period will be listed on the City website.

Section 2: Chapter 133-9. "Penalties for offenses".

In the event an activity is not being performed in accordance with this chapter, the owner of the property or the owner's agent or the person performing such violation shall be notified to suspend all work, and any such persons shall forthwith stop such work and suspend all activities. Any person who violates

any provision of this chapter shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both except that violations under § 133-8, Permit Required; Construction Work, Mechanical Rock Excavation and blasting restrictions, shall be treated as individual violations for each and every such violation and noncompliance, respectively, thereof, shall be punished upon such first conviction by a fine of not more than \$1,000, an order to suspend construction work, mechanical rock removal and/or mechanical rock removal and/or excavation and/or blasting on the site for a period of not more than 72 hours, or by imprisonment not exceeding 15 days, or any combination of such fine, suspension, and imprisonment, and each day that such violation shall continue shall be construed as a separate offense. Upon any subsequent conviction for the same offense such person shall be subject to a fine of not more than \$2,000, or an order to suspend construction work, mechanical rock removal and/or excavation and/or blasting on the site for a period of not more than 72 hours, or by imprisonment not exceeding 15 days, or any combination of such fine, suspension and imprisonment. The imposition of one penalty for any violation shall not excuse or remedy such violations.

Section 3: Chapter 133-10. “Exempt acts”.

§ 133-10. Exempt acts.

The following activities and agencies are exempt from the requirement of this Chapter:

- A. The actions of governmental agencies, including the Rye City School District and the Rye Neck Union Free School District, shall be specifically exempt from the requirements of this chapter.
- B. Removal of rock for the sole purpose of the installation of gas or electrical service, and the installation of water, sewer service or storm water drainage, shall be exempt from sections B and D above. Any property owner seeking to utilize this exemption must certify in writing that the rock removal is solely for this purpose, and must provide at least 24 hours notice to the City of same. The property owner must provide new certification and notice if the removal lasts more than three (3) days. Upon such notice(s), the activity will be listed on the City website.

Section 4: 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 5: Effective date.

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

ROLL CALL:

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

The Local Law was adopted by a 7-0 vote.

- 8A. Discussion to amend local law Chapter 191, “Vehicles and Traffic”, of the Rye City Code by amending Section §191-19, “No parking any time”, to prohibit parking on the north side of Osborn Road between Theall Road and the Harrison line and on the south side of Osborn Road between Coolidge Avenue and the Harrison line.

City Manager Serrano explained that the City had received emails regarding parking on the lower section of Osborn Road which will be discussed the next night at the Traffic and Pedestrian Safety Committee meeting. Sam DiEdwards, 161 Osborn Road, said that commuters have been parking on the road and it is simply not wide enough. Harrison eliminated parking and moved the yellow line over so it is safe in Harrison. Jane Fitzpatrick, 152 Osborn Road, said there has never been a parking problem and raised the safety concern and their desire to avoid any accidents. Cian Ribetto, an Osborn parent, asked the Council to consider the bigger picture on Osborn road and the safety of the school children. Councilwoman Killian noted that the Traffic and Pedestrian Safety Committee has discussed the issues around the Osborn school many times and is pleased that there will be a meeting tomorrow with the School Administration. Ann Schrock, 2 Walker Avenue, also an Osborn parent mentioned that there was a request to make Osborn one-way during pickup and requested that a police officer be at Osborn at dismissal. Mayor Sack noted that a meeting was being held the next day to discuss the situation.

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

WHEREAS, the Council wishes to consider amending Chapter 191, “Vehicles and Traffic” of the Code of the City of Rye by amending Sections 191-19; 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 October 21, 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 191, "Vehicles & Traffic" of the Rye City Code by
amending §191-19, "No parking any time" to prohibit parking on the north
side of Osborn Road between Theall Road and the Harrison line and on the south
side of Osborn Road between Boston Post Road and the Harrison line.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 21st day of October 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 concerning a proposal to amend Chapter 191 "Vehicles and Traffic" of the Code of the City of Rye, New York, by amending Section §191-19, "No parking any time" to prohibit parking on the north side of Osborn Road between Theall Road and the Harrison line and on the south side of Osborn Road between Boston Post Road and the Harrison line.

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

Diane C. Moore
Deputy City Clerk
Dated: October 9, 2015

9. Summary of the 2016 Budget Process and Consideration of setting the 2016 Budget Workshop schedule.

The 2016 Budget schedule dates were set as follows:

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| Wednesday, November 4 th : | Presentation of the Budget |
| Monday, November 9 th : | Capital Projects Fund Building & Vehicle Fund Department of Public Works |
| Monday, November 16 th : | Public Safety: Police and Fire Recreation Golf Enterprise Fund Boat Basin Enterprise Fund Rye TV Special Review Fund |
| Wednesday, November 18 th : | Rye Free Reading Room Contract Service Agencies |

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| Wednesday, December 2 rd : | Public Hearing on the Budget |
| Wednesday, December 16 th : | Adoption of the Budget |

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

Bob Zahm, 7 Ridgewood Drive, thanked the Council for taking action on multiple issues noting that they are a deliberative body taking appropriate action for the City. He identified a safety issue on Midland Avenue under the I-95 bridge going towards Home Depot which needs to be cleaned and remediated; the City will notify the appropriate authority to correct the situation. He asked if parking was allowed on the snow field, and if not, when would enforcement commence. The City Manager said that parking is currently allowed but a discussion is ongoing regarding possible parking permits and hours of operation.

10A. Consideration of a request for a waiver from the Rock Chipping Moratorium for the project located at 50 Cowles Avenue.

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 approves the request for a waiver from the Rock Chipping Moratorium and authorizes no more than eight (8) chipping days within a fourteen (14) calendar day period upon notice and coordination with the City Manager's office and notify the City Manager's office at the completion of each chipping day so that the amount of chipping is recorded.

ROLL CALL:

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

The Resolution was adopted by a 7-0 vote.

11. Resolution to transfer \$15,000 from the Contingency account to fund the restoration and placement of the City of Rye Mile Markers.

Councilwoman Brett said that beyond the cost of the restoration of Mile Markers 25 and 26, the Landmarks Committee was advised to create a stone cast of Mile Marker 25 as it is the only mile marker in Rye that still has the original inscription. The cost of these projects exceeded the original estimates so additional money must be taken from contingency. Mayor Sack asked that the City Manager approve all future expenditures; Mr. Serrano noted that the Landmarks Committee has been advised of this.

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

WHEREAS, City staff has determined that the amounts required for the cost of restoration and placement of the City of Rye Mile Markers has exceeded the amount budgeted, and;

WHEREAS, the General Fund Contingent Account has a balance of \$50,000, now, therefore, be it;

RESOLVED, that the City Comptroller is authorized to transfer \$15,000 from the General Fund Contingent Account to the Street Maintenance Account.

ROLL CALL:

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

NAYS: None

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

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

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

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

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

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

ROLL CALL:

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

NAYS: None

List of Surplus Equipment:

- 2011 – 5 Ton model M925A1 Military transport truck (Vin#2320012064088)
- 1983 – Dresser Forklift, Model M10A (Vin#3930010543833)
- Cummings Diesel Engine s/n# NSN 2825015555483 model ISL – 400E
- 1 Self-powered Heater s/n# NSN 4520-10-559-837
- Portable Latrine s/n# NSN 4510012011614
- (2) Salamander Heaters
- (18) MSA Respirators – SX12932354F409
- 1 set of forklift forks
- Sony Beta Cam s/n# 5836DSVIDEORE #W13G8623030024

- Sony DXC-3009A VIDEO CAMERA s/n#5836DS VIDEORE
#W13G8623030025

13. Consideration of a request by the Recreation Department to hold their 39th annual *Turkey Run* on Saturday, November 28, 2015 during Thanksgiving Weekend.

Mayor Sack made a motion and unanimously carried, to adopt the following Resolution:

RESOLVED, that the City Council of the City of Rye hereby approves the request of the Recreation Department for the use of city streets to hold their 39th annual *Turkey Run* on Saturday, November 28, 2015 during Thanksgiving Weekend.

14. Consideration of a request by the Rye Merchants Association to close a portion of Purchase Street on Sunday, November 29, 2015 from 10:00 a.m. to 3:00 p.m. for the *Mistletoe Magic* event.

Mayor Sack made a motion and unanimously carried, to adopt the following Resolution:

RESOLVED, that the City Council of the City of Rye hereby approves the request of the Rye Chamber of Commerce to close a portion of Purchase Street on Sunday, November 29, 2015 from 10:00 a.m. to 3:00 p.m. for the *Mistletoe Magic* event.

15. Miscellaneous communications and reports.

There was nothing reported under this Agenda item.

16. New Business.

There was nothing reported under this Agenda item.

17. Adjournment.

There being no further business, Councilwoman Brett made a motion, seconded by Councilwoman Bucci to adjourn the meeting at 10:45 p.m.

Respectfully submitted,

Eleanor M. Militana
Assistant City Manager