

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on November 18, 2015 at 7:30 P.M.

PRESENT:

JOSEPH A. SACK Mayor
LAURA BRETT
KIRSTIN BUCCI
TERRENCE McCARTNEY
RICHARD MECCA
Councilmembers

ABSENT:

JULIE KILLIAN
RICHARD SLACK
Councilmembers

The Council convened at 6:30 P.M. Councilwoman Bucci made a motion, seconded by Councilman McCartney and unanimously carried to immediately adjourn into executive session to discuss litigation and personnel matters at 6:33 P.M. Councilwoman Brett made a motion, seconded by Councilman McCartney and unanimously carried, to adjourn the executive session at 7:34 PM. 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 Clerk to call the roll; a quorum was present to conduct official City business.

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

This agenda item was taken out of order.

Councilman McCartney introduced Sally Rogol and Lisa Dempsey of the Recreation Department to provide the background on the issue which is before the City Council for approval. The process to reach this point has been more than one year. The policies have been vetted both informally and formally through a user group over the past year, in which everyone in community was invited to provide feedback and have an opportunity to be heard. The proposed policy has been posted on the website at www.ryeny.gov.

Ms. Dempsey thanked the Council for considering adopting the sports policy as recommended by the staff. The user group reviewed policies from both neighboring communities and on a national level to create this recommendation. The Recreation Department looks forward to a concrete policy so that rules and regulations are clear.

Mayor Sack asked for clarification regarding whether the school districts would be charged for use of the fields. Recreation Superintendent Rogol confirmed that language would be added to the policy that would exempt schools from being charged for use of the fields. She will send the amended language to the City Council once updated.

Mayor Sack proposed voting on the policy contingent on the language amendments discussed.

Councilman McCartney confirmed with Superintendent Rogol that entities giving private lessons while using the fields would share 20-25% of revenues with the City.

Mayor Sack thanked the group for its discussion and candor and resolution on the issue.

Councilman McCartney made a motion, seconded by Councilwoman Brett and unanimously carried, to adopt Youth Sports Policies, Guidelines and Fees for the City of Rye Recreation Department, as modified by the pending amended language.

ROLL CALL

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

3. General Announcements.

Councilman Mecca announced that Mistletoe Magic will be held on Sunday, November 29, 2015. Purchase Street will be closed for the hours of 11:00A.M. to 5:00P.M. He encouraged residents to bring their families to the event.

Councilman McCartney thanked everyone who attended the Veteran's Day ceremony on November 11, 2015. He thanked the speakers at the ceremony who gave very moving comments. He stated that these events are well-attended and the Council encourages residents to bring their families and children. He announced that a Memorial Day ceremony would be coming up in May 2016. Councilman McCartney also announced that the Turkey Run will be on Saturday, November 28, 2015. The early bird rates are good until November 20, 2015 and those interested may register on the recreation website. Further, he stated that the Holiday Bonfire and Sing Along is Sunday, December 6, 2015 at 5:00 P.M. at the Rye Recreation building. Lastly, he announced that with respect to Rye Golf Club, the greens are still open and in good shape while the weather holds out.

4. Draft unapproved minutes of the regular meeting of the City Council held November 4, 2015 and the Budget Workshop held November 9, 2015.

Councilwoman Brett made a motion which was unanimously carried by the Council to approve the minutes of the regular meeting held on November 4, 2015 and the minutes of the Budget Workshop, held on November 9, 2015.

5. Issues Update/ Old Business

City Manager Serrano updated the Council on the proposed plans at the United Hospital site. He announced that there was a meeting on November 13, 2015 with the New York State Department of Transportation (NYSDOT) and engineers for the City, Rye Brook, and Port Chester.

Phil Grealy of Maser Consulting and traffic engineer for the City updated the Council on the status of the United Hospital project. The recent meeting held with NYSDOT brought the technical engineers together between the City and surrounding municipalities. The NYSDOT provided comments on the traffic impacts of the proposed projects. Mr. Grealy stated that the City's engineers renewed their concerns about potential traffic impacts. The Village of Port Chester's traffic engineer has not given his review letter yet. The applicant's proposed traffic mitigation plan will change based on the applicant's reevaluation of future traffic conditions. Mr. Grealy stated that one idea provided by the NYSDOT was to engage in both a pre and post-development study of traffic. There will be another meeting on December 4, 2015 to reconvene the engineers. Mr. Grealy anticipated that the applicant's traffic engineer would return with an updated study for review. One discussion item of note was the potential closing of High Street. The City's engineers also raised concerns regarding the applicant's representation that traffic would be mitigated due to a large number of anticipated trips using public transit. The City's engineers disagree with that representation, as the site is too far from the train station. Mr. Grealy stated that once the engineers receive Port Chester's consultant review letter, they will be able to comment and provide the Council with an update after the December 4, 2015 meeting.

Mayor Sack thanked Mr. Grealy for his report and subsequently invited the Council to update the community on any old business.

Councilman McCartney announced that TKI (TessengerloKerley, Inc.) settlements remain underway and he is hopeful to provide an update soon.

Mayor Sack announced that with regard to the Police Commissioner search, there has not been a selection yet, but the Council looks forward to meeting a future candidate.

6. 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.

Councilwoman Brett reviewed the background on the zoning change before the Council. The applicant has come to the Council asking for rezoning at the lot at 120 Old Post Road and has presented its proposal and renderings. Councilwoman Brett reminded the Council that the issue before them is the matter of rezoning. She stated that it seems that the current zoning is no longer economically feasible. The market for office space in Westchester County is declining, an issue that was considered before the Planning Commission. She stated that from the City’s perspective, there has been a decrease from the tax base for office space. The questions that should be asked are twofold; the Council must first decide whether the change of use is appropriate, and second, the Council must analyze the effects of a change in use. She felt that the Council should consider the traffic and financial impacts. Councilwoman Brett further stated that the Council would be given a traffic update from its traffic engineers, Maser Consulting. She stated that the Council would also request an update on the fiscal aspect from the applicant. Further, the Council would inquire with the Corporation Counsel and City Manager on the next steps for tax issues to avoid a tax certiorari claim immediately following a zoning change.

City Manager Serrano announced that a traffic study that was completed and that there were new draft amendments to the zoning language. He introduced Phil Grealy of Maser Consulting, professional traffic engineering consultants for the City.

Mr. Grealy addressed the Council and stated that Maser Consulting reviewed the applicant’s traffic studies. Maser’s review was summarized in a letter in November 2015. The engineers focused on several items and concerns with the applicant’s traffic studies. Mr. Grealy stated that there was no question that the traffic proposed would be less impactful than that of an office building. There are some issues in the surrounding areas with traffic and pedestrian safety. There were several issues presented in the report; one being whether a signal would be appropriate at the intersection of Playland Parkway and Old Post Road. Mr. Grealy stated that the engineers felt that there should not be a traffic signal. He further stated that there could be an extra lane to diffuse traffic into a two-lane approach to separate out right and left turns. In terms of pedestrians, Mr. Grealy stated they anticipated an increase in pedestrian traffic with the proposed type of use. Further, there are some areas that Maser has identified to improve gaps within the sidewalk system. One example is the sidewalk located on Theodore Fremd. He noted accidents identified in applicants report on Playland Parkway. This issue could be mitigated with some restriping.

Mr. Grealy further stated that another item to be considered was the opening of the emergency access point on the property. He felt that opening the access point would not result in a large traffic benefit. He stated that the amount of volume from the development would be relatively minor and opening the access points has a potential to create more volume at a point on Old Post Road. Another issue is examining the prospect of a “right turn only” lane at the intersection where Boston Post Road meets Playland Parkway. Such an improvement would require further study. Mr. Grealy stated that the analysis is that sight distance could be handled,

but traffic during peak times may be more difficult. They will need the county's guidance and approval on that issue.

Mr. Grealy then discussed other issues, including Thruway access, Playland Parkway and the Playland access road. He felt that further study was required to comment on these issues. Pedestrian improvements were also discussed, as well as a possible signal for the Thruway access road for the left-hand turn and pedestrian safety.

Mr. Grealy stated that Maser received correspondence from the Rye Traffic Committee who commented on the proposed traffic recommendations. The committee had some comments and concerns on sight lines and creating two lanes on the Playland access road approaching Old Post Road. The committee supports the consideration of the roundabout and pedestrian improvements. The committee did not comment on the left-hand turn issue at Boston Post Road. Mr. Grealy stated that if any of these proposals were pursued, there would need to be approval from the County. Mr. Grealy then acknowledged a letter from Mr. Van Der Wateren – who are opposed to a signal at Playland access road and Old Post Road. He clarified that the ultimate recommendation was not to create a signal at that location.

Councilwoman Brett summarized the recommendations as follows: a right-hand turn on the Playland access road, potentially introducing a signal on Old Post Road and a roundabout to be examined. Any changes will need approval from the County. She confirmed that it was the opinion of the City's traffic engineers that the potential rezoning would not have the same traffic impact as it is zoned currently. Mr. Grealy confirmed that Councilwoman Brett's summary was correct.

Councilman McCartney acknowledged a letter from Mr. Van Der Wateren who suggested implementing a lengthy right-hand turn lane. Mr. Grealy agreed that a right turn lane would be long, but acknowledged that the length of the turn lane was not something that was previously discussed.

Corporation Counsel Wilson told the Council that there was a draft text amendment to the proposed rezoning, which will be provided to the Council.

Jonathan Kraut, attorney for the applicant, stated that the City's traffic consultant reviewed the applicant's traffic reports. After considering the traffic impacts, Mr. Kraut stated that their proposal will be better than that of a fully-occupied office building. He brought up the issue of capital improvement funding, which the applicant agrees to. Mr. Kraut further stated that they have reviewed the text amendment which includes a per unit fee. As an update, Mr. Kraut told that Council that they understood from the last meeting that there was a concern about front yard setbacks. The applicant's proposed design includes a building set on the property in the shape of a diamond. Mr. Kraut then raised further issues, including working with the City Planner on the zoning language to reflect the Council's changes. He then stated that the Osborn raised points that the applicant addressed at the last meeting. The applicant subsequently met with the Osborn, whose final concern was a side yard setback issue. Mr. Kraut handed a letter to the Council on an agreement between the applicant and the Osborn, promising to apply to the Planning Commission with a concept to mitigate the side yard issue. He represented that the

Osborn was satisfied with this resolution and the applicant plans on moving forward with application as it currently is proposed. Mr. Kraut then discussed tax issues with respect to the property. He stated that Rye lost roughly 50% of the assessable value of this property over the last five years due to the decline of the value of the property.

Councilwoman Brett inquired as to the current assessment on the property. Mr. Kraut responded that it was \$143,100. The present market value for 2014 is 7,492,000; the current tax bill is \$135,000 and the anticipated approximate tax bill will be \$615,896. Mr. Kraut confirmed that this figure would be the total tax bill for the entire property, and that roughly \$100,000 of the \$600,000 would be paid to the City.

Councilwoman Brett stated that the Council has received all of the requested information, and it is now up to the Council to now decide and vote on the rezoning. She praised the applicant for a good presentation on the value of that property. Further, she stated that at the last Council meeting, she expressed concerns for density on site. Councilwoman Brett then proposed a reduction in the FAR to 0.75, despite the current proposed project indicated an FAR of 0.78. There is concern about the density and number of units. The new zone proposes a greater density than any other in the community. She suggested a minimum lot size per family to mitigate this concern, or altering the number of bedrooms. Lastly, she stated that her preference was a reduction in the number of units.

Councilwoman Bucci stated that she appreciates the applicant's changes that have been made.

Councilman McCartney stated that there is a need for seniors to be able to stay in Rye. This proposed project fills a niche within the City and he felt many people would take advantage of it. He further stated that the application is accessible to the public on the website. The property is going to be attractive and the applicant will have to work on the landscaping. Further, this property will be a tax benefit to balance the budget.

Councilman Mecca agreed with Councilwoman Brett on the issue of changing the FAR to 0.75 and increasing the size of units to three bedrooms.

Mayor Sack stated that there should be a proposal together to vote on at the next meeting. There has been lengthy public comment and a site visit, extensive traffic analysis and the possibility of an impact fee. This project does fit in Rye and fits a need within the community and this particular neighborhood. He further stated that the Council's objective is to come to a reasonable solution and consensus. He then asked the applicant for feedback on the proposed change to FAR and total number of units.

Mr. Kraut responded that the calculation which affectively reduces the total number of units may not be troublesome for the applicant, provided they can utilize the square footage. Concerning the FAR, the difference between the square footage at 0.78 and 0.75 brings the square footage from 237,000 to approximately 228,700. The change between the two is a rather small amount on the seven acres, but meaningful to the applicant. The applicant is requesting

that the Council approve a change in FAR from 0.8 to 0.78, but they respect the Council's decision.

Emily Hurd, current Rye resident, then addressed the Council. She clarified with Councilwoman Brett's calculation of a 0.75 FAR by splitting the difference between the other senior housing FAR, 1.0, and a multifamily property which is 0.5.

Mayor Sack confirmed that there are multifamily structures in other zones that exceed their FAR.

Ms. Hurd then inquired as to whether HUD was aware of the property. She also stated that she understood that the Council is examining whether this is in the best interest for the City.

Mayor Sack responded that the Council acts with regard to the best interest of the City. It was a suggestion from the County to include an affordable housing unit, but the Council has recently approved affordable housing for seniors in close proximity to this property.

Councilwoman Brett stated that the City has mixed zoning in Rye throughout the community. The Council does not feel this project would have a discriminatory impact with regard to affordable housing, as this would be multi-family and close in proximity to two affordable housing districts.

Mayor Sack stated that the public hearing on this issue will be continued for a proposal on the Council's next agenda.

Mr. Kraut requested that any changes are done so forthwith to ensure that they are properly noticed for the next meeting.

Mayor Sack announced that the proposal will set the FAR at 0.75 despite the applicant's point, and the Council will allow for three bedroom units as opposed to just two bedroom units. The amended language will be posted to the website.

Councilwoman Brett made a motion, seconded by Councilman McCartney and unanimously carried, to continue the public hearing to December 2, 2015.

Joseph Murphy, a Rye resident, stated to the Council that he felt this project would be good for seniors and that the community supports this project.

7. 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.

City Manager Serrano opened the issue and stated that one of the major pending capital improvements is the sewer line. The County has drafted an intermunicipal (IMA) agreement

regarding sewer improvements to receive funding. The City would be responsible for managing the project. The staff has worked hard to revise this agreement. Upon signing the agreement, the City can bid for a contractor. City Manager Serrano then introduced Anthony Zaino from Westchester County to explain the scope of the project.

Mr. Zaino explained to the Council that the proposed project would rebuild a sewer line near the railroad, to reroute that line through a different sewer district. The County's proposal is to provide \$1 million of funding to the City. The City would act as administrator of the project, go out to bid and hire a contractor. The City Engineer would be responsible for developing an estimate for the project. Mr. Zaino further explained that a portion of the funding would be used for other public improvement projects on right of way and Theodore Fremd.

Mayor Sack confirmed that the County will be funding the project, and the City would be managing the project.

Councilman McCartney inquired as to the staff working on the initiative, and City Manager Serrano responded that the project manager would be Ryan Coyne, City Engineer.

Mayor Sack thanked City Manager Serrano, City Engineer Coyne and City Planner Miller for their efforts on this issue. He stated he was hopeful that the issue could be resolved at the subsequent Council meeting on December 2, 2015. Mayor Sack thanked Mr. Zaino for attending the meeting.

8. Presentation of a Proposal to collect baseline data on the deer population and Authorization for the City Manager to enter into an agreement with Hank C. Birdsall regarding same.

Mayor Sack stated that with regard to the deer population in Rye, the County is not being helpful. The deer overpopulation problem is significant in the City, and the County is in the best position to help with this problem. The County has a deer hunting program that they have already implemented in six other parks in the county. The City will need to initiate a project on its own. Mayor Sack then stated that it is important to continue to focus on the deer count to accurately determine how many deer there actually are as a benchmark. That way, the City can be effective when implementing a program. He then introduced the Deer Study Group.

City Manager Serrano agreed that it is important to quantify the problem. He introduced Hank C. Birdsall, who provided the City with a reasonable proposal which may be helpful to resolving the issue.

Mr. Birdsall stated to the Council that he was raised in the City and lived in Rye for 25 years. He has extensive education in the area of deer counting. He told the Council that he will use the method of pellet counts and tracking. He spoke to the County and was given permission for this activity. Walking counts will provide a reading on the minimum number of deer. The pellet count will take place in April and the tracking will take place in late Fall.

Councilman McCartney asked how it is possible to know that one is not recounting the same deer over and over again. Mr. Birdsall responded that the scat pellet count method is very scientific. The count method is not as scientific, but it is helpful to counting minimums.

Councilman McCartney made a motion, seconded by Councilwoman Brett and unanimously carried, to authorize the City Manager to enter into an agreement with Hank C. Birdsall regarding his proposal to collect baseline data on the deer population.

ROLL CALL

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

NAYS: None

ABSENT: Councilmembers Killian and Slack

10. Three appointments to the Rye Golf Club Commission for a three-year term expiring January 1, 2019.

Councilman McCartney read the election results for the Rye Golf Club Commission for new appointments. Those voted in were Peter Marshall, Angela Sposato, and Michelle Horgan. He welcomed them for the new term.

Councilman McCartney made a motion, seconded by Councilwoman Brett and unanimously carried, to appoint Peter Marshall, Angela Sposato and Michelle Horgan to the Rye Golf Club Commission, with a term expiring on January 1, 2019.

Mayor Sack added that the new Commission members have been involved and instrumental to helping the City in the past.

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

Mack Cunningham, 502 Forest Avenue, addressed the Council. He stated that he wanted to highlight issues in the budget for clarity and public discussion. Concerning the Dearborn Seawall project, he questioned where this issue was included within the budget. There is a relationship between the Town of Rye and the City of Rye on this issue with respect to capital contribution. He stated that Dearborn Avenue is 100% a City issue.

City Manager Serrano confirmed that there will be an intermunicipal agreement with the Town of Rye in which the City will be managing the project.

Mr. Cunningham then raised the issue of the traffic study for the site at United Hospital to follow the SEQRA filing.

City Manager Serrano responded that the work of the City's engineers is continuing with the Final Environmental Impact Statement (FEIS).

Mr. Cunningham inquired as to the extent of the study and asked if it included the 95 North access point. He felt that this would impact the traffic into Rye.

Mayor Sack confirmed that the City will include the traffic study funding as a line item to continue the ongoing study. He further stated that the Port Chester expert is currently in agreement with Rye's consultant. The City is hopeful that the applicant itself will begin to agree with the City's consultants. The City will continue to work with the DOT through the project.

Mr. Cunningham then raised the last mile project on I-287 and 95. The scope of work was developed many years ago.

City Manager Serrano stated that his impression was that the project is dead and the funding will be moving to the reconstruction of the Tappan Zee Bridge. Mr. Cunningham asked the City to follow up on this issue.

Mr. Cunningham expressed his concern over the City's technology budget over the last five years has increased by 30%. He suggested oversight of that department to ensure best practices.

Mr. Cunningham then raised the issue of the camera project. He provided the background to the Council and recommended that the City inquire as to the final cost for this project and how the fees will impact the relevant departments.

Mr. Cunningham lastly thanked the Mayor and Council for holding a workshop on the Boat Basin. In the short time that he has been involved with the Commission, the group has taken on tasks that are outside the typical roles of an advisory group. They have been identifying potential revenues for the City. One possible revenue source is the mooring fee. That fee would be deposited into a dredging fund exclusively as an initial step for dredging improvements. Mr. Cunningham noted that Row America in the Boat Basin only pays the City \$5,000 year in City taxes and they do not contribute to the Boat Basin. He stated that the Commission feels that they should pay something back to the Boat Basin. One upcoming proposed fee is a wharf permit fee in 2016. Mr. Cunningham also noted that a dock is not considered an enhancement or improvement for assessment purposes. An entity at a dock may receive a benefit of the Boat Basin without contributing to the ongoing maintenance. Mr. Cunningham then stated that the Council deserves to look at the Boat Basin budget issues earnestly to consider adopting proposed changes.

Mayor Sack stated that the Council welcomes a recommendation from the City Manager regarding the proposed fees for the Boat Basin. He acknowledges Mr. Cunningham's comments.

Councilwoman Brett brought up the issue of underwater land grants, indicated by a survey, which give specific property owners the right to own and maintain a dock.

12. Miscellaneous communications and reports.

There was nothing discussed under this agenda item.

13. New Business.

There was nothing discussed under this agenda item.

14. Adjournment.

There being no further business to discuss at the open meeting, Councilwoman Brett made a motion, seconded by Councilman McCartney and unanimously carried, to adjourn the meeting into executive session to discuss personnel matters at 9:39 P.M.

Respectfully submitted,

Carolyn E. D'Andrea
City Clerk