

APPROVED MINUTES of the
Regular Meeting of the City Council of the
City of Rye held in City Hall on November 2,
2016 at 7:30 P.M.

PRESENT:

JOSEPH A. SACK Mayor
KIRSTIN BUCCI
EMILY HURD
JULIE KILLIAN
RICHARD MECCA
DANIELLE TAGGER-EPSTEIN
Councilmembers

ABSENT:

TERRENCE McCARTNEY
Councilmember

The Council convened at 6:30 P.M. Councilwoman Bucci made a motion, seconded by Councilwoman Tagger-Epstein and unanimously carried to immediately adjourn into Executive Session to discuss litigation and personnel matters. Councilwoman Bucci made a motion, seconded by Councilman Mecca and unanimously carried, to adjourn the Executive Session at 7:30 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 Clerk to call the roll; a quorum was present to conduct official City business.

3. General Announcements.

Mayor Sack announced the sad passing of John Duffy, Jr. He stated that his condolences went out to the Duffy Family during this tragic time. There was a moment of silence.

Councilwoman Killian announced that it was with deep sorrow that she announced that Heike Murphy had also passed away. There was a moment of silence for Ms. Murphy.

Mayor Sack announced that Election Day was on Tuesday, November 8, 2016. Many items are on the ballot, including the referendum for the approval to create a Public Safety Commissioner and Department of Public Safety. Mayor Sack stated that the City is looking for the current Police Commissioner to assume the role of Commissioner of

Public Safety. This will be a cost-effective and positive solution for professional management within the City. Under the City Charter, it requires this issue be submitted to the voters and the Council is asking for a vote of “Yes.” Councilman Mecca demonstrated a sample ballot and stated that the referendum question is located on the reverse side of the ballot. Councilwoman Bucci encouraged residents to vote “Yes” based on the cost-effective option for professional management.

Mayor Sack stated that earlier this year, the City was told that the Central Avenue Bridge closure would be six to seven months. The City has recently been told that it would be closed for another year. Mayor Sack said that he was hopeful for a representative from the NYSDOT to attend a future Council meeting and answer questions from the City.

Mayor Sack asked City Manager Serrano to discuss the recent blasting at Rye Playland. City Manager Serrano stated that he was told by the County that they had every intention of complying with the City’s blasting laws. There was a question of whether notice had been sent to abutting residents, to which Councilman Mecca confirmed that he knew that some residents within close proximity had received notice.

Mayor Sack stated that he would like to see Suez Water Company to add the water restrictions and water emergency information onto the water bills to notify residents.

Mayor Sack said that a gun store would be opening in Harrison. He said that there may or may not be anything the City can do, but it raises the question of what if anything we can do within Rye. Mayor Sack requested that Councilwoman Tagger-Epstein and Councilman McCartney spearhead a subcommittee of the Council to explore any and all options about what can be done within the City of Rye.

Councilwoman Killian stated that the federal government licenses firearms dealers. She stated that for many years, the person running the store in question had been a licensed firearms dealer out of his home.

Councilwoman Tagger-Epstein echoed Mayor Sack’s statement about exploring those safety precautions within the community that can be legally done.

Councilwoman Hurd asked if Mayor Sack could touch base with the Mayor of Harrison to ensure that the proper precautions have been taken. Mayor Sack stated that he had discussed the issue with the Mayor of Harrison.

Councilwoman Tagger-Epstein stated that the Healthy Yard Sign Competition welcomed submissions. Those interested can read the rules and regulations at <http://www.ryesustainability.com/sign-design-contest/>. Councilwoman Tagger-Epstein also announced that on November 3, 2016 in the middle school auditorium, Jessica Lahey will be speaking about the “Gift of Failure” and encouraged parents to attend. She also stated that there were several unfortunate events that occurred in Rye on Halloween and complimented Rye’s Police Commissioner who is responsive and actively engaged in

Rye's schools. Councilwoman Tagger-Epstein stated that certain things that happened on Halloween are unacceptable within the City. This is a good opportunity for the community to come together and use the resources it has to offer.

Councilwoman Killian announced that Rye ACT was having a day of training to be held on Thursday, November 10, 2016 about community norms. She thanked the Rye Free Reading Room for letting Rye ACT hold the event there. Councilwoman Killian also mentioned that the City's Police Commissioner has received rave reviews from other Commissioners and Chiefs throughout the County.

Councilwoman Bucci stated that the Lions Club has awarded Christina Dorfman as the recipient of the 2016 James and Marion Shea Service Award. Ms. Dorfman has served in various capacities throughout the City with a strong dedication to the community. Councilwoman Bucci also announced that the George Kirby Golf Committee has raised over \$300,000 for seniors over the last 26 years ago.

Councilwoman Hurd stated that the Mile Marker 25 issue has been adjourned to the next meeting. The Boat Basin closed on November 1, 2016, but recent changes to the Fees and Charges schedule will allow slip holders to remove their boats by December 1, 2016 without penalty. On Sunday, November 27, 2016 the Chamber will be hosting Mistletoe Magic. Further, on Saturday, November 26, 2016, residents are invited to participate in the annual Turkey Trot.

Joseph Murphy, Franklin Avenue resident, commented that James and Marion Shea were very special people. Mr. Murphy said that James was on the board for the Rye Free Reading Room for a number of years and a clever accountant. He also acknowledged Marion Shea for her involvement in the church, community, and Rye Senior Citizens. He stated the City was blessed to have them both.

Mayor Sack stated he was recently contacted by Jay Maloney, cousin of the Maloneys of Rye. Jay recently traveled to Rye, England, where he met the current mayor. Mr. Maloney videotaped the clock and the pendulum in Rye, England, which was almost identical to the one in this building. Mayor Sack was happy to welcome Mr. Maloney back to Rye on a recent trip.

4. Draft unapproved minutes of the regular meeting of the City Council held October 19, 2016.

Councilman Mecca made a motion, seconded by Councilwoman Tagger-Epstein and unanimously carried by the Council, to adopt the draft minutes of the regular meeting of the City Council held October 19, 2016.

5. Issues Update/Old Business.

Councilwoman Hurd asked about an update on the Master Plan. City Manager Serrano stated that the draft RFP was in the Master Plan Committee's hands to review.

City Manager Serrano discussed the United Hospital development site. He said that the Department of Transportation must provide comments to the Final Environmental Impact Survey, and the applicant must respond to the comments. The Village of Port Chester will then have a public hearing.

6. Continuation of the Public Hearing to amend local law Article 21, "Financial Procedures", Section §C21-9, "Bond Resolutions", of the Charter of the Rye City Code, to revise the City's discretionary debt limit.

Councilwoman Bucci stated that the City's current debt limit allows the City to only borrow up to 5% of the average gross annual budget for the preceding three years, which translates to approximately \$700,000 for 2016. She said the City would like to raise the limit to 30% of the average gross annual budget for the preceding three years, which translates to approximately \$11 million. She felt it was appropriate to match the kinds of capital projects that the City is considering with long term money. In raising the limit to 30%, the permissive referendum would also be eliminated. Lastly, if the City wanted to spend more than \$1 million on the purchase of land, the City would be required to go out for a referendum vote.

Councilwoman Killian reminded the Council and community that the City of Rye is one of the only municipalities in New York State with a self-imposed debt limit.

Councilman Mecca made a motion, seconded by Councilwoman Tagger-Epstein and unanimously carried, to close the public hearing.

Councilwoman Tagger-Epstein made a motion, seconded by Councilwoman Bucci and unanimously carried, to amend local law Article 21, "Financial Procedures", Section §C21-9, "Bond Resolutions", of the Charter of the Rye City Code, to revise the City's discretionary debt limit as follows:

CITY OF RYE
LOCAL LAW NO. 2016

A local law to amend Article 21 "Financial Procedures" to eliminate any City imposed debt limit and authorize the issuance of debt in accordance with New York State Local Finance Law and other applicable State limits as follows:

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

Section 1:

Article 21. Financial Procedures. § C21-9. Bond Resolutions.

- A. All bond resolutions, except as hereinafter provided, authorizing the issuance of bonds in excess of 30% of the average of the gross annual budget of the city for the preceding three years shall be adopted by a vote of at least five members of the council and shall be subject to the approval

of a majority of the qualified voters voting at a general or special election.

- B. The Council may, by a vote of at least five members thereof, authorize the issuance of bonds not in excess of 30% of the average of the gross annual budget of the city for the preceding three years, provided that the aggregate of the proposed bond issue and the outstanding obligations under bonds previously issued without being subject to any referendum does not exceed 30% of such average.
- C. All bond resolutions, except as hereinafter provided, authorizing the issuance of bonds in excess of One Million Dollars (\$1,000,000) for the acquisition of real property shall be adopted by a vote of at least five members of the council and shall be subject to the approval of a majority of the qualified voters voting at a general or special election.
- D. The provisions of this section shall not apply to bond resolutions authorizing the issuance of bonds for the payment of judgment, or compromised or settled claims against the City, or awards or sums payable by the City pursuant to a determination by a court, or an officer, body or agency in an administrative or quasi-judicial capacity, or any capital improvement or equipment proposed to be constructed or acquired where the expense thereof, other than operation and maintenance, is to be borne by local assessment upon the several lots and parcels of land which the Council shall determine and specify to be especially benefited thereby, or capital improvements or equipment to be constructed or acquired which have been determined by resolution of the council to be required to implement a Federal, State or County of Westchester mandate failure of which to comply with could, in the judgment of the Council expressed in resolution, result in the imposition of a fine or penalty, or authorizing the issuance of obligations to be sold to the New York State Environmental Facilities Corporation or any successor thereto.
- E. The provisions of this section shall not apply to bond resolutions authorizing the issuance of bonds for the payment of capital improvements or equipment proposed to be constructed or acquired for purposes determined by resolutions of the council to be required for public safety purposes requiring urgent action, in an amount not exceeding \$1,000,000 in the aggregate in any fiscal year, and provided that on the date of adoption of said bond resolution, the Council determines that the aggregate of the proposed bond authorization and the outstanding principal amount of obligations previously issued for public safety purposes requiring urgent action in reliance on this paragraph E does not exceed \$2,500,000. In making such determination, the Council shall disregard certain such outstanding obligations to the extent provided below. Such determination shall be conclusive for all purposes of this paragraph E, irrespective of whether through inadvertence or otherwise such determination is later found to be inaccurate. In the event that the

Council determines that the aggregate of the proposed bond authorization and the outstanding obligations issued for public safety purposes requiring urgent action exceeds \$2,500,000, the Council may authorize a mandatory public referendum on the question of whether such bond authorization shall become effective. In the event of approval of such authorization at a referendum, such authorization shall become effective and i) the obligations issued or to be issued in reliance on such bond authorization, and ii) the outstanding amount of obligations previously issued or authorized for public safety purposes requiring urgent action in reliance on this paragraph E on the date of adoption of such bond authorization, shall be thereafter disregarded for all purposes of this paragraph E.

- F. The provisions of this section shall not apply to bond resolutions authorizing the issuance of bonds for the payment of capital improvements or equipment proposed to be constructed or acquired for purposes determined by resolution of the Council to be required for natural disaster reconstruction as a result of a natural disaster, as declared by the Federal Government or the State government requiring urgent action, in an amount not exceeding \$2,500,000 in the aggregate in any fiscal year, and provided that on the date of adoption of said bond resolution, the Council determines that the aggregate of the proposed bond authorization and the outstanding principal amount of obligations previously issued for natural disaster reconstruction purposes requiring urgent action in reliance on this paragraph F does not exceed \$2,500,000. In making such determination, the Council shall disregard certain outstanding obligations to the extent provided below. Such determination shall be conclusive for all purposes of this paragraph F, irrespective of whether through inadvertence or otherwise such determination is later found to be inaccurate. In the event that the Council determines that the aggregate of the proposed bond authorization and the outstanding obligations issued for natural disaster reconstruction purposes requiring urgent action exceeds \$2,500,000, the Council may authorize a mandatory public referendum on the questions whether such bond authorization shall become effective. In the event of approval of such authorization at a referendum, such authorization shall become effective and i) the obligations issued or to be issued in reliance on such bond authorization, and ii) the outstanding amount of obligations previously issued or authorized for natural disaster reconstruction purposes requiring urgent action in reliance on this paragraph F on the date of adoption of such bond authorization, shall be thereafter disregarded for all purposes of this paragraph F.

Section 2: 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 3: Effective date.

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

7. Continuation of the Public Hearing regarding the request submitted by Crown Castle to amend their agreement with the City and for the installation of additional locations to their existing wireless telecommunications located in the City of Rye.

Corporation counsel Wilson stated that the tolling agreement dates have been amended to December 8, 2016 for a SEQRA determination, and December 22, 2016 for a final determination by the City.

Will Brown, 33 Grapal Street, stated he has been a Rye resident for three years. He asked if the Council has ever considered a referendum for this issue. Corporation Counsel Wilson responded that a referendum would be not legally possible. Mr. Brown asked if the City has looked at other providers to see what other alternative cellular technology could be considered. Mayor Sack responded Crown Castle's application is the one currently before the Council, but that he suspects that others will come forward. To prepare for the future, the City is attempting to negotiate with the applicant on issues such as the RUA agreement to be able to have better footing going forward with other applicants.

Parag Sheth, 18 Holly Lane, stated that two nodes are being proposed within this neighborhood. He said that he had signed a petition, even though he was not in the line of sight of a node. He said that when he was looking for a home, they chose Rye due to the beauty and quaintness of the town. He felt concerned about the aesthetics of the nodes and future of the nodes.

Jim Johnson, 5 Mendota Avenue, addressed the Council. He said that he has been a resident for 15 years due to the great schools, aesthetics, and historic feel. He said that these characteristics matter enormously to the residents. He felt concerned about the real estate values. He noted the lack of speakers in favor of the issue.

Kristin Siano, 60 Fairway Avenue, addressed the Council. She stated that she lived on a quiet street and felt concerned that the noise and aesthetics would damage the neighborhood. She asked the Council to do everything they would to stop Crown Castle.

Dan Richmond, Zarin & Steinmetz, 81 Main Street, White Plains, addressed the Council on behalf of residents against the application. He stated that the Court of Appeals has ruled that the applicant must fill a gap in coverage through the 'least intrusive means.' He encouraged the City to continue to enforce their notice concerning the right of way agreement, and Chapter 196. He said that his clients were happy to see that the City is pursuing the SEQRA review. He spoke further about the application and

asked that the City consider the cumulative impacts. He said that any suggestion by Crown that SEQRA review is a delay tactic is offensive. He thanked the Council and asked them to reject the application.

Joshua Cohn, 24 Green Avenue, addressed the Council. He made a statement against what was presented by the City's representatives about the right-of-way. He said that there is bandwidth being proposed over power lines. He also discussed 5G technology. He then stated concern over the expansion of nodes. Mr. Cohn stated that he was also concerned about the noise and clutter of the nodes. He stated he was grateful over the possible negotiation of the right-of-way use agreement. He encouraged that the City consider this issue within its Master Plan. There was then general discussion about Mr. Cohn's Freedom of Information requests to the City.

Chris Fisher, Cuddy & Feder, addressed the Council. He corrected the notion that the cell towers were the same as DAS nodes. He discussed the right-of-way agreement (RUA) and its existence. He emphasized that he felt it was important to operate within the bounds of the law and the RUA. As far as federal law, Mr. Fisher stated that his colleague has a position that is not supported. He spoke against the burdens of proof that the public would like to put on his client. He briefly discussed the Village of Pelham case. He also stated that it is the City Council's obligation to comply with the SEQRA review.

Councilwoman Hurd asked what discretion the City would have in Mr. Fisher's opinion. Mr. Fisher responded that in his experience, the chief elective body would work through a consent process.

Mayor Sack stated that he would keep the public hearing open.

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

Joseph Murphy, 57 Franklin Avenue, updated his comments on the Shea family spoken earlier in the meeting. He said that Jim Shea was a very active member of the Lions Club. The Lions Club decided a number of years ago to create an award recognizing the legacy of Mr. Shea. Mr. Murphy also said that Marion Shea eventually joined the Lions Club as well. Lastly, he stated that Marion Shea was the first chair of the Rye Senior Advocacy Committee.

John Linder, 47 Waters Edge, discussed a broken seawall near Waters Edge. Recently, the street has been blocked off and children have been going over the wall.

Vito LaRusso, 9 Waters Edge, spoke on behalf of Waters Edge. He stated concern over the collapsed seawall from Hurricane Sandy. He said the management company had sent the City a letter and nothing has been done.

City Manager Serrano responded to the comments and stated that the wall partly belonged to the Town of Rye. This project is a FEMA issue and the City is waiting for an update from FEMA regarding approvals to move forward and fix the wall.

Aren Topian, Waters Edge, stated that currently, the project would be \$6,000. However, if the seawall collapses, the project will be \$75,000.

Mike Buccieri, 57 Waters Edge, stated that the wall will collapse if not repaired.

Arlene Liter, 11 Waters Edge, stated that she contacted Senator Latimer about the issue and urged the Council to push the item to move forward.

Kent Warner, Waters Edge, also encouraged that the Council take action. He also stated that there will be an event Sunday afternoon 4:30 at the Rye Free Reading Room on "5 steps to 5."

9. Consideration to set a Public Hearing for November 16, 2016 for a Special Permit Application submitted by New Cingular Wireless PCS, LLC ("AT&T") for modifications to its existing wireless telecommunications facility located at 66 Milton Road.

Corporation Counsel Wilson explained that in line with regular process, a public hearing needs to be set pursuant to proposed modifications submitted by New Cingular Wireless PCS, LLC ("AT&T") regarding its existing wireless telecommunications facility located at 66 Milton Road.

Councilman Mecca made a motion, seconded by Councilwoman Tagger-Epstein, to set a Public Hearing for November 16, 2016 for a Special Permit Application submitted by New Cingular Wireless PCS, LLC ("AT&T") for modifications to its existing wireless telecommunications facility located at 66 Milton Road.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Killian, McCartney, Mecca and Tagger-Epstein
NAYS: Councilwoman Hurd
ABSENT: Councilman McCartney

10. Consideration to set a Public Hearing for November 16, 2016 and referral to the Board of Architectural Review for a Special Permit Application submitted by T-Mobile Northeast LLC ("T-Mobile") for modifications to its existing wireless telecommunications facility located at 66 Milton Road.

Cara Bonomolo, Snyder & Snyder, addressed the Council on behalf of T-Mobile. She said that T-Mobile was proposing a replacement of four existing antennae and two cabinets. She stated this was not a substantial physical change. She explained the plans in detail for modifications.

Councilwoman Hurd stated that what strikes her is that both telecommunications modifications are located on Blind Brook Lodge.

There was legal discussion regarding the meaning of “substantial change” with regard to telecommunications.

Councilman Mecca made a motion, seconded by Killian, to set a Public Hearing for November 16, 2016 and referral to the Board of Architectural Review for a Special Permit Application submitted by T-Mobile Northeast LLC (“T-Mobile”) for modifications to its existing wireless telecommunications facility located at 66 Milton Road.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Killian, McCartney, Mecca and Tagger-Epstein
NAYS: Councilwoman Hurd
ABSENT: Councilman McCartney

11. Resolution to appropriate \$500,000 from the General Fund, Unassigned Fund Balance to the Hewlett Pump Station Project for improvements to the sewer infrastructure.
Roll Call.

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

WHEREAS, City staff has determined that the amounts required for the Hewlett Pump Street Station Project to improve the sewer infrastructure was not anticipated and was not provided for in the adopted 2016 budget by \$500,000, and;

WHEREAS, the General Fund, Unassigned Fund Balance has enough funds to be appropriated for the project, now, therefore be it;

RESOLVED, that the City Comptroller is authorized to transfer \$500,000 from the General Fund, Unassigned Fund Balance to the Hewlett Pump Station Project for improvements to the sewer infrastructure.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca and Tagger-Epstein
NAYS: None
ABSENT: Councilman McCartney

12. Bid Award for the Hewlett Pump Station contract (Contract #2016-15).
Roll Call.

City Manager Serrano reported that this bid award would allow the City to replace a 30-year-old pump station.

Councilman Mecca made a motion, seconded by Councilwoman Killian and unanimously carried, to award Contract #2016-15 to the low bidder, Mace Contracting Corporation, in the amount of six hundred ninety two thousand dollars (\$692,000.00) as recommended by the City Engineer and approved in the City's Annual Budget.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca and Tagger-Epstein
NAYS: None
ABSENT: Councilman McCartney

13. Resolution to appropriate \$200 from the Rye Senior Advocacy Commission funds to the Rye Interfaith Corporation for the Taxi Voucher Program.
Roll Call.

Joseph Murphy, 57 Franklin Avenue, stated the Senior Advocacy committee received a grant from the Rye Women's Club. He said that this happens each year, and they are required to ask the City Council for approval to appropriate \$200 from the Rye Senior Advocacy Commission funds to the Rye Interfaith Corporation for the Taxi Voucher Program.

Councilwoman Tagger-Epstein, seconded by Councilwoman Hurd and unanimously carried, to adopt the following resolution:

WHEREAS, the Rye Senior Advocacy Commission works with the Rye Interfaith Corporation and provides additional funding for the Taxi Voucher Program, and;

WHEREAS, the Rye Senior Advocacy Commission, with funding provided by the City Council, seeks to provide \$200 to the Rye Interfaith Corporation for the Taxi Voucher Program, now, therefore be it;

RESOLVED, that the City Comptroller is authorized to transfer \$200 from the Rye Senior Advocacy Commission funds to the Rye Interfaith Corporation for the Taxi Voucher Program.

ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, Mecca
and Tagger-Epstein
NAYS: None
ABSENT: Councilman McCartney

14. Consideration of the proposed new Rules and Regulations of the City of Rye Police Department General Order #114.9 regarding a Continuity of Operations Emergency Preparedness Plan.

City Manager Serrano stated that this would implement a contingency policy for the Police Department in an emergency.

This item was tabled for a later date.

15. Consideration of the proposed new Rules and Regulations of the City of Rye Police Department General Order #119.6 regarding a Visitor Log and Procedure Policy.

This item was tabled for a later date.

16. Miscellaneous communications and reports.

There was nothing discussed under this agenda item.

17. New Business.

There was nothing discussed under this agenda item.

18. Adjournment.

There being nothing further to discuss at the open meeting, Councilman Mecca made a motion, seconded by Councilwoman Tagger-Epstein and unanimously carried, to adjourn into executive session to discuss a real estate matter.

Respectfully submitted,

Carolyn E. D'Andrea
City Clerk