

*APPROVED MINUTES* of the Regular Meeting of the City Council of the City of Rye held in City Hall on February 15, 2017, at 7:30 P.M.

PRESENT:

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

ABSENT:

RICHARD MECCA

The Council convened at 6:30 P.M. Councilman McCartney made a motion, seconded by Councilwoman Bucci and unanimously carried to immediately adjourn into Executive Session to discuss litigation and personnel matters. Councilman McCartney made a motion, seconded by Councilwoman Bucci and unanimously carried, to adjourn the Executive Session at 7:30 P.M. The regular meeting convened at 7:45 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.

13. Consideration of a request by the Rye Free Reading Room for use of the Village Green and City Hall Parking lot to host the Annual Vehicle Fair on Sunday, May 21, 2017 from 11:30 a.m. to 3:00 p.m.

This item was taken out of order.

Chris Shoemaker, Director of the Rye Free Reading Room, requested that the Library be approved to host the Annual Vehicle Fair, sponsored by the Auxiliary Board, to be held on the Village Green and in the parking lot on May 21, 2017.

Councilwoman Bucci made a motion, seconded by Councilwoman Killian and unanimously carried, to approve the request by the Rye Free Reading Room for use of the Village Green and City Hall Parking lot to host the Annual Vehicle Fair on Sunday, May 21, 2017 from 11:30 a.m. to 3:00 p.m.

3. General Announcements.

Councilwoman Hurd stated that there will be an updated report from the consultants regarding the New York Rising grant project in May 2017. She further stated that there will be another hearing from the Landmarks Committee on March 1, 2017 regarding the Benjamin Franklin Mile Marker. Councilwoman Hurd also reported that she recently attended the NYCOM conference, where she was proud to represent Rye and interested to hear that there are similar issues that face municipalities throughout the State of New York.

Councilwoman Killian announced that the Rye ACT Town Hall discussion will be held on Tuesday, May 9, 2017 prior to National Drug Prevention Week at Rye High School. She also stated that Rye Town Park is involved in a capstone study on which a survey will be displayed on [www.townofryeny.com](http://www.townofryeny.com). She also stated that there will be two public forums at the Rye Free Reading Room Saturday March 4, 2017 from 9:30-11:00 A.M. and on Monday March 6, 2017 at 7:30 P.m. Councilwoman Killian also announced that there will be an open discussion following that open forum on Saturday, March 4, 2017 at noon at T & J's in Port Chester.

Councilman McCartney announced that there was still room for enrollment in the winter break recreation programs, including ice skating and open gym, golf camp, mad science, and more. Registration is ongoing for the programs, which will run from 9:30 A.M. to 12:30 P.M. each day for the program. For summer camp registration, the Kiddy Camp registration is ongoing. Councilman McCartney also announced that the City was served with a suit from members of Rye Golf Club regarding the damaged greens in 2015. He also announced that the Rye Golf Club is honoring an early bird discount for membership, and that he was excited for a great season. Councilman McCartney also encouraged citizens to call the Police Department if there are public safety issues. He also encouraged residents to help one another in need.

Councilwoman Killian added that Commissioner Corcoran has done a terrific job with resident concerns on public safety matters.

Councilwoman Tagger-Epstein stated that the Rye Sustainability Committee's tree fund is up and running, and raised over \$3,000 as of the date of the meeting. The City lost the designation of Tree City USA in 2006 and is hopeful to have that titled restored. Councilwoman Tagger-Epstein then thanked those who have reached out to her over the last few weeks regarding the Human Rights Commission in Rye. She stated she looked forward to the Commission starting up again and resident involvement on important human rights issues. She also stated that she attended the Human Rights Council New York City Gala this weekend, which was a wonderful event.

Mayor Sack noted the passing of Robert Slater, Sr., a longtime rye resident and Rye Firefighter. There was a moment of silence.

4. Draft unapproved minutes of the regular meetings of the City Council held January 25, 2017 and February 1, 2017 and the Workshop on Capital Projects held February 1, 2017.

Councilman McCartney made a motion, seconded by Councilwoman Bucci and unanimously carried, to adopt the draft minutes of the regular meetings of the City Council held January 25, 2017 and February 1, 2017 and the Workshop on Capital Projects held February 1, 2017.

5. Issues Update/Old Business.

There was nothing discussed under this agenda item.

6. Presentation on Rye TV.

Councilwoman Killian thanked the Rye Cable Commission for their hard work and service to the community through programming.

Nicole Levitsky, TV Access Coordinator, addressed the Council. She introduced the Cable Committee and Mary Ellen Doran.

Ms. Doran addressed the Council. She provide background and a brief overview of Rye TV. She showed a short video about the impact of Rye TV on the community. Ms. Doran reviewed what it means to be a public access channel, connecting the community with important City events. She gave the history and background of Rye TV, which started in 1986 and has grown to feature over 600 distinct programs annually. She discussed managing the public and government channels, communication with francize providers and facilitating programming. She explained that the programs are produced by residents, the Cable TV Committee, and nonprofit organizations. She then discussed the government access programs, including City Council meetings, workshops, and explained public access programming in detail. This programming included recreation programs, community events, and public safety messages.

Ms. Doran then discussed the sources and uses of funds from the PEG grant and franchise fees. She said the last equipment upgrade was in 2009, and as such, there will likely be upgrades soon.

She then did a market comparison by community, and presented community impact metrics, and highlights and accomplishments, and 2017 goals. These goals included successfully negotiating franchise agreements, expanding community outreach, media training skills, launching the Rye TV news program, revamping studio space, updating equipment and developing three to give year strategic plan.

Ms. Doran also discussed students who had participated in Rye TV through the high school and who have been successful in their careers. She showed a video of a former student who now has a successful career in production.

Mayor Sack thanked Ms. Doran for her presentation. He felt this was the time to start discussing the budget items that will be before the Council later in the year. He also felt that it was important to review her presentation and the metrics in order to create a budgetary plan. Mayor Sack and Councilwoman Killian also commented that they were excited about what Rye TV does for the high school students.

Councilwoman Tagger-Epstein asked how much the franchise agreements moving forward would affect the funding for Rye TV. There was more discussion over this item, such as Rye Neck funding.

Councilman McCartney inquired about Rye News. Ms. Doran explained that Rye News would be a magazine style news program based on current topics and events going on around town. In the past this program had been a difficult endeavor to sustain, but with a model having more producers during the day, Ms. Doran was hopeful that this would be successful.

Councilwoman Killian clarified that PEG grant must be used for equipment only, and the franchise fees must be used for the public and government access.

Mayor Sack thanked the Cable TV Commission.

7A. Presentation by Joseph Van Eaton, Esq., Best Best & Krieger.

Joseph Van Eaton, Best Best & Krieger, presented to the Council. He stated that he received comments at 7:25 P.M. prior to the meeting from the law firm of Zarin & Steinmetz on the outdated proposed law. He stated that the latest version of the law addresses much of the comments within that document. He felt it was important to ensure that there should be language prohibiting unnecessary lighting.

Turning to his presentation, Mr. Van Eaton first discussed what the proposed ordinance does and does not do. He said that ordinance does not decide whether Crown Castle's request should or should not be granted. The ordinance does not decide whether Crown Castle's right-of-way agreement is or is not valid. The ordinance would apply to all wireless facilities because the FCC rules governing expansion of utilities apply to all wireless facilities, not just cellular facilities. He explained that the amendments to the Code would use the language identified in the FCC's definitions. He showed a real life example of a base station and antenna.

He explained that the ordinance cannot treat applicants in a discriminatory manner under federal law. He also stated it was important to deal with all aspects of potential base stations, including equipment boxes, etc., and not just the antenna. He then gave a background of federal and state law and the limitations set on the municipalities regarding telecommunications. He mentioned it was important to maximize concealment elements with regard to wireless infrastructure.

Mr. Van Eaton continued and explained that the proposed Code revision would amend noise provisions within the law to ensure that it applies to noise emitting from communications facilities such as cell towers and require anyone who places a facility within the right-of-way to have a franchise. There was then discussion over fees based on sites, versus gross revenue percentages.

He then talked about special use permits not being required for certain class of wireless devices, such as a pieces of equipment less than one cubic foot, and additions to existing, approved towers that do not substantially change the dimensions of the structure. He explained that a policy issue to be decided is whether it should be required that every facility have showing that a denial of a permit request would prohibit or effectively prohibit service. He stated that a special use permit would not be granted if the facility was speculative. Further, an applicant would be required to have an agreement with the City for use of its right-of-way and comply with federal, state and local laws and the facility must be sized and placed to minimize the impact on the community.

Mr. Van Eaton then discussed “least intrusive means” that the applicant must show. He also discussed stealth of a structure and the goal of limiting expansion on a pole.

He then discussed advantages of the proposed amendments over the existing ordinance, such as dealing with Section 6409 of the Middle Class Tax Relief and Job Creation Act, removing any question that ordinance applied to the right of way, and creating safe harbors to placement of facilities while limiting future expansion, and addressing noise and franchise issues.

Mayor Sack thanked Mr. Van Eaton for his thorough presentation, which laid the foundation for this issue.

7. Continuation of the Public Hearing to amend the Rye City Code: (a) local law Chapter 133, “Noise”, by amending Section §133-4, “Points and method for measuring intensity of sound” to regulate placement and noise of telecommunication devices; (b) local law Chapter 167, “Streets and Sidewalks”, to add a new 196, “Wireless Telecommunications Facilities”, by amending Sections §196-3 through §196-8, §196-14, §196-17, §196-18, and §196-22 to regulate wireless facilities and structures regarding size, visual impact and permit process.

Lia Laurino, Rye resident, stated that she had concerns over the nodes and their health effects.

Joshua Cohn, 24 Green Avenue, stated that he was upset that the City had not delivered the latest draft to his attorney. He discussed various concerns, including a grandfather clause for existing structures.

Charles Hyman, Rye resident, stated concerns over health impacts. He then asked about the environmental impact statement. He then asked if there will be a demonstration about noise.

Bart Breinin, 180 Locust Avenue, asked Mr. Van Eaton and Corporation Counsel Wilson about the version of Chapter 196 that would apply to Crown Castle. He also asked why there was no mention of residential zones. Mr. Van Eaton explained that the community's comments favored types of property, such as parks, which could be within residential and non-residential zones. He asked about the proposal of a slick stick at Greenwood Union Cemetery. Mr. Van Eaton responded that the City might want to be cautious about approving a 90 foot tower if it is not prepared to approve all 90 foot towers that come before the City.

Ariel Eckstein, 19 Hix Avenue, addressed the Council. He thanked Mr. Van Eaton for his presentation and the evolving draft. He asked about the final draft and was hopeful that residents would have opportunity to review and comment.

Marly Bredt, 17 Thistle, addressed the Council. She thanked the Council for their service and time and attention on this issue. She felt that communication was important. She also asked the Council to consider fees and methods that have been used nationally.

Councilman McCartney made a motion, seconded by Councilwoman Killian, to continue to the public hearing to March 1, 2017.

8. Public Hearing to amend local law Chapter 144, "Peddling and Soliciting", of the Rye City Code by amending Section §144-8, "Restrictions", Subsections (D) and (G) to give the City Council authorization to waive the authorized time restrictions and location of peddlers/solicitors in a public place.

Councilwoman Killian made a motion, seconded by Councilwoman Hurd, to open the public hearing.

Corporation Counsel Wilson explained that the City could approve an event on a special permit basis, rather than amend the law. There was no other comment.

Councilwoman Killian made motion, seconded by Councilman McCartney to close the public hearing.

The item was tabled.

- 8A. Request for Special Permit for City of Rye Annual Foodtruck Festival on Saturday, June 24, 2017.

Councilman McCartney made a motion, seconded by Councilwoman Killian and unanimously carried, to grant the request for a Special Permit for City of Rye Annual Foodtruck Festival on Saturday, June 24, 2017.

#### ROLL CALL

AYES: Mayor Sack, Councilmembers Bucci, Hurd, Killian, McCartney, and Tagger-Epstein

NAYS: None  
ABSENT: Councilman Mecca

9. Continuation of the Public Hearing to amend local law Chapter 194, "Water", of the Rye City Code by amending Section §194-1, "Conservation in times of emergency", to give the City Manager the authority to declare conservation in times of water emergency.

Councilman McCartney made a motion, seconded by Mayor Sack, to close the public hearing.

Councilwoman Killian made a motion, seconded by Councilman McCartney, to adopt the following amendments to local law Chapter 194, "Water", of the Rye City Code by amending Section §194-1, "Conservation in times of emergency":

**CITY OF RYE  
LOCAL LAW NO. 2017**

A local law to amend Chapter 194 "Water Conservation" by repealing §§ 194-1 "Conservation in times of emergency" and 194-2 "Penalties for offenses" in their entirety and to adopt a new Chapter 194 "Water Supply Emergencies" as follows:

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

**Section 1:**

**§ 194-1. Statement of purpose.**

**The City of Rye purchases water from the New York-American Water Company (hereinafter referred to as "Suez") and from Westchester Joint Water Works (hereinafter "WJWW") (Suez and WJWW are hereinafter referred to collectively as the "Water Companies"). From time to time, the levels of the reservoirs will require the declaration of a water supply emergency. When a water supply emergency is declared, there are certain water use restrictions that must be implemented. Accordingly, the purposes of this chapter are:**

- A. **To codify and thereby enable the City of Rye to enforce water-use restrictions imposed during a water supply emergency by the Water Companies, acting in conjunction with the municipalities it services;**
- B. **To restrict the wasteful, inefficient and/or nonessential use of water during periods of drought; and**
- C. **To establish penalties for violations and to provide for enforcement of water conservation measures in the City of Rye for the protection of the health, safety and welfare of the City.**

**§ 194-2. Drought Response Plan.**

**The Drought Response Plan of the Connecticut-American and Suez Companies, which plan was established on July 13, 1995, and subsequent modifications and/or supplements thereto published by the Connecticut-American and Suez Companies (hereinafter collectively referred to as the “Drought Response Plan”) shall be incorporated by reference into this chapter and become a part thereof. Similarly, any plan developed by WJWW shall be incorporated by reference into this chapter and become a part hereof.**

**§ 194-3. Applicability.**

**Any person, corporation or entity located within the territorial boundaries of the City of Rye that receives, purchases, and/or uses water supplied by the Water Companies shall be subject to the provisions of this chapter.**

**§ 194-4. Declaration of water supply emergency.**

- A. Based upon the levels of the reservoir(s) of the Water Companies, the time of year, and the precipitation levels in the territories serviced by the Water Companies, the Water Companies may request that the City Manager declare the existence of a water supply emergency in one of three possible phases in accordance with the Drought Response Plan.**
- B. Prior to any emergency, the Water Companies shall inform the City Manager as early as practicable that a shortage of water may occur so that the City and its residents are on notice.**
- C. If a Water Company determines that an emergency does exist, the Water Company shall inform the City Manager of the emergency and ask that a water emergency be declared. The Water Company shall provide notice of its emergency in the designated Official Newspaper of the City of Rye and by transmittal to the radio and television media in the territorial areas serviced by it.**
- D. When a water supply emergency is declared by the City Manager, the Water Company shall inform the City Manager at least once every month as to the extent and length of the emergency. When the Water Company determines that the precipitation are back to a safe level, the City Manager shall end the emergency and remove any water restrictions in place.**

**§ 194-5. Variances.**

- A. Upon written application of any person, corporation or entity, the City Manager may, in his or her discretion, grant an exemption and/or variance relieving such person, corporation or entity from compliance with the water use restrictions imposed on the basis of factors including but not limited to any of the following:**
  - 1. An undue hardship would otherwise result;**
  - 2. No possible alternatives exist;**

3. The applicant has taken and will take all possible measures to conserve water, with a complete description of such measures and the water savings to be effected;
  4. Such exemption and/or variance is not inconsistent with the purposes of this chapter; and/or
  5. The source and nature of the applicant's water supply.
- B. In connection with any exemption and/or variance which may be granted, the City Manager shall impose such terms and conditions as he or she deems appropriate. Any variance and/or exemption granted shall be fashioned to comport as strictly as possible with the intent of this chapter.
- C. The determination by the City Manager to grant or to deny an exemption and/or variance from compliance with the water use restrictions imposed may be appealed to the City Council. Upon receipt of such an appeal, the City Council shall affirm, reverse or modify the determination of the City Manager and impose such terms and conditions as it deems appropriate.

§ 194-6. Enforcement.

The City Police Department and the City Building Inspector are hereby designated enforcement officers with respect to water use restrictions set forth above.

§ 194-7. Penalties for offenses.

Any person, corporation, or entity violating any water use restrictions imposed pursuant this Chapter may, upon conviction, be punished for the first offense by a fine of not more than \$250; and for the second offense, by a fine of not less than \$250 but not more than \$500, or by imprisonment for not more than 15 days, or both. The third or any subsequent offense within 12 months may be punishable by a fine of not less than \$500 nor more than \$750 or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each day that a violation under this chapter continues may be considered a separate offense for which a fine or imprisonment may be imposed.

**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.

ROLL CALL

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

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

Bob Zahm, Rye resident, addressed the Council. He expressed concern about water collecting with refuse on Theodore Fremd Avenue.

11. Resolution to amend the 2017 Adopted Fees and Charges for the Rye Boat Basin Enterprise Fund.  
Roll Call.

Councilwoman Hurd explained that the wording in the fees and charges needs to clarify fees for new applicants, distinguished from existing members.

Councilwoman Hurd made a motion, seconded by Councilman McCartney, to amend the 2017 Adopted Fees and Charges for the Rye Boat Basin Enterprise Fund.

ROLL CALL

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

12. Resolution to approve a Workplace Violence Policy and a Workplace Violence Prevention Program for the City of Rye.

City Manager Serrano stated that the City never had a formal Workplace Violence Policy as required by the Labor Department. Implementing a policy of this nature would help mitigate the recent PESH violations issued to the Fire Department. He stated that future training would be scheduled for employees.

Mayor Sack made a motion, seconded by Councilman McCartney, to approve the proposed Workplace Violence Policy and a Workplace Violence Prevention Program for the City of Rye.

ROLL CALL

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

13A. Request to Use the Snow Field Lot on March 9, 2017.

Mayor Sack stated that there had been a request from the Rye City School District for the Snow Field lot to be utilized for a conference on March 9, 2017 for approximately 25 cars.

Councilwoman Killian made a motion, seconded by Councilwoman Hurd and unanimously carried, to approve the request of the Rye City School District to use the Snow Field Lot on March 9, 2017.

14. Miscellaneous communications and reports.

There was nothing discussed under this agenda item.

15. New Business.

There was nothing discussed under this agenda item.

16. Adjournment.

There being no further business to discuss, Councilman McCartney made a motion seconded by Councilwoman Killian, to adjourn the regular meeting of the City Council at 11:04 P.M.

Respectfully submitted,

Carolyn E. D'Andrea  
City Clerk