

***DRAFT UNAPPROVED MINUTES*** of the  
Special Meeting of the City Council of the City of  
Rye held in City Hall on September 26, 2018, at 7:30  
P.M.

PRESENT:

JOSH COHN, Mayor  
SARA GODDARD  
EMILY HURD  
RICHARD MECCA  
JULIE SOUZA  
BENJAMIN STACKS  
DANIELLE TAGGER-EPSTEIN  
Councilmembers

ABSENT:

None

The Council convened at 7:30 P.M. Councilman Mecca made a motion, seconded by Councilwoman Souza, to commence the special meeting of the City Council. The meeting began at 7:47 P.M.

1. Pledge of Allegiance.

Mayor Cohn called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call.

Mayor Cohn asked the Deputy City Clerk to call the roll; a quorum was present to conduct official City business.

The Mayor started with an opening comment to address the storm from the previous evening. He was grateful for the first responders and also grateful that the rain subsided sooner than projected. Mayor Cohn went to Bowman Dam with the Police and DPW and was struck with the enormous quantity of water that was rushing with amazing speed. He expressed that the quantity of water was unprecedented with such a short period of time which left a short amount of warning time for the people of Indian Village, in particular. He will look to see how the City will address it in the near future to be more responsive. The Mayor said that those who have shown up this evening and today during office hours, have been asked to come back next week so they can have a unified discussion regarding emergency response with the NY Rising project.

The particular issue with trash pick-up after the flooding water has resulted in the DPW making a special garbage collection pick-up the next day. The DPW will also look into street cleaning.

The Mayor explained this is a special meeting designed to focus on certain items so the regular meetings can stay on course.

4. Consideration to set a Public Hearing on October 17, 2018 to consider a local law to establish a Community Choice Aggregation Program in the City of Rye.

Mayor Cohn invited Councilwoman Goddard to elaborate on the program. Councilwoman Goddard explained that Sustainable Westchester is a non-profit consortium of almost every Westchester municipality. She reiterated that a representative spoke at the last City Council meeting to explain one of the programs called Community Choice Aggregation. This program is a municipal energy bulk supply that replaces the current utility as the default supplier. The CCA puts control within the local municipality in this bulk arrangement for competitive pricing and procure clean energy. There are 20 municipalities who have signed on to the first round of contracts for a 3 year contract. Now the opportunity is open for all municipalities to join with the contract. What is required is the municipality must pass a local law in order to participate which is why the public hearing needs to be set this evening. This Monday evening will be an educational meeting at the Rye Free Reading room for questions, and the recording is also available from a meeting earlier in the year.

The Mayor asked Jasmin Graham, Outreach & Compliance Coordinator at Westchester Power, to answer a few questions. Mayor Cohn asked if a resident has the choice to buy electricity. Ms. Graham reported that every resident has the option to opt in or opt out of this program and any individual has the choice to switch from green energy or opt out. The Mayor asked what the notification will say if the City were to opt in to the program. The notification would say the City decided to participate in the program and they would have a 30 day window to opt out by calling the office or going online. You can opt out before the program begins and you can opt out at any point once you are enrolled in the program. Anyone that does not opt out will seamlessly transition to this program. Con Edison will still handle the billing and supplying so they would still be the contact as it relates to the monthly bill or any outages. If you are enrolled in auto-pay with Con-Ed it will be unaffected and if you have your own ESCO (Energy Savings Company) you would not be enrolled or receive the notification. Ms. Graham added that everyone in the office is a Westchester resident and they are always available to assist should residents have any questions.

Councilwoman Goddard made a motion, seconded by Councilwoman Tagger-Epstein, to set a Public Hearing on October 17, 2018 to consider a local law to establish a Community Choice Aggregation Program in the City of Rye.

3. Update by the Mayor on the Last Mile Project (I95 reconstruction).

Mayor Cohn explained that a conference was held today with the Thruway Authority, Project Manager, the construction firm, Senator Shelly Mayer, a representative from Assemblyman Steve Otis' office, along with City staff to talk about the Last Mile Project. The fundamental problem is they are in a preparatory stage and when they are ready they will only work on a two week staging timeline. They will look at material supply chain, man power, and weather, then decide where they will be working two weeks later. As a result, the City will only know two weeks in advance with great certainty what is to come.

One thing confirmed is that ramp L on the northbound side of I95 by Midland Parkway is a great focus and will be worked on very consistently during the construction period until 2021. They will be closing the ramp, except for emergency vehicles, which will result in detouring people west bound to exit 9 and then back to 287 to get them on I95. The City will have to make sure people are aware of weight limits and such to focus on the possible cut through by Playland Parkway. A blasting notice will go out soon as it is expected to start this fall and if you have not been notified you should contact the Council. Councilwoman Souza asked if foundation checks will be done as people have attributed cracks in foundation to blasting, while Councilman Stacks asked if they will repair roads that will be over used during this period. The Mayor took note of the foundation question and explained the City would be assessing our roads to see if they become compromised from the construction.

The meeting also verified that the area will have a site wall, versus a sounds wall, which is a 12-23 feet tall wall barrier. However, during the construction, there will be a fence with screening. The City has asked for specific details so people who have lost their site shielding from the trees they took down will have sufficient protection during the two year phase. Alternate one way passage on Grace Church will begin in two weeks so passage will be constricted. General work hours are 7am-3:30pm and then 9pm-5:30am is prime working time from the Thruway Authority perspective because of low traffic volume. The contractor was chosen on its ability to set a speedy schedule and will try to limit weekend work. Additionally, the city will take into account of the permitted spots it is losing in 2019 and 20 meter spaces for a four month basis.

The City stressed the importance of the north-south roads, Purchase Street, Boston Post Road, Midland Avenue, and Grace Church Street. They are aware of the desire to have staggering of the routes.

5. Continuation of Public Hearing to establish the 2019 budgeted fees and charges.

Mayor Cohn said he would like to have another discussion this evening, followed by a final discussion so they could make a decision on the fees and charges. The Council would like the budget process to move forward so the Accounting Department can work with firm numbers instead of proposed numbers.

Mayor Cohn asked City Planner, Christian Miller, to answer questions that were asked by the Council regarding Building and Planning fees. The first was regarding the Penalty for work begun without a permit, and how it covered a variety of situations. Mayor Cohn explained that this fee covers those who start a job without a permit they need, while others have a permit for 'x' but not for 'y', and then there are others that obtain a permit, but do not do the work they said they are doing. Mayor Cohn asked Corporation Counsel Wilson if there should it be a penalty instead of a flat fee. Mr. Miller explained this item is a fee and not a penalty and there are additional financial implications a homeowner will incur if they do not follow the proper permit process. For example, a Stop Work Order has no fee associated to it, but is an incredible motivator for compliance, since many contractors have their jobs on a specific timeline and a stop work would throw off the project timeline. Additionally, the City can file a formal violation in court for enforcement actions. Penalties for fines assessed by a judge, the administrative fee, plus stop work, are all monetary expenses by the homeowner that are not visible when looking at a fee schedule. Corporation Counsel Wilson confirmed the fee itself can only legally cover the administrative costs. Further, she explained for penalties, the Council has the legislative authority to make changes in the City Code should they want to add a sliding scale of fines associated to these offenses. Councilwoman Goddard, Ms. Wilson, and Mr. Miller all agreed that the name should be clarified, as the current language is confusing, since it is called Penalty for work begun without a permit, but it is in fact not a penalty, it is a fee. Mayor Cohn confirmed that the Council was comfortable leaving the amount at \$1500.

Next was a question on the generator fee, which was raised from \$300 to \$400. The Council asked why this should be a 33% increase while other fees have not increased so dramatically. Mr. Miller explained there has been a greater administrative burden as they have seen an increase of people installing generators. It requires all of the trades to be involved and multiple inspections. In addition to the general 2-2.5% annual increase, the department considered the additional time it has taken on the department which is how that increase was derived. Councilman Mecca reaffirmed that a generator permit is very complicated due to the fact that one must be compliant with noise ordinances, placement, CO2, Gas, Electric and requires multiple inspections, so in consideration of that, the fee is reasonable. Mayor Cohn confirmed the Council was happy leaving the generator fee at \$400.

The next item the Council discussed was rock removal. The Mayor asked Mr. Miller to differentiate blasting and rock chipping. Mr. Miller explained that blasting is much more involved, requiring much more staff and staff time. There are pre-blasting meetings verifying neighbor notification and there is much more neighbor involvement. The applicant is also responsible for paying for the City's blasting inspector who must be on-site for the duration of the project. The rock chipping permit is only two years old and is a relatively easy permit to administer. However, the fee was raised because they have noted that maintaining the rock registry is more labor intensive than they initially anticipated. Councilwoman Souza asked if the cost associated also considers the time spent fielding phone calls of concerns when these projects occur, which Mr. Miller confirmed. Mr. Miller explained further that these permits are the only two that are on such a short timeframe because applicants only have 38 days, regardless of weather conditions or any other factors. However, the applicant can apply for a 3 day extensions with no additional fee. After hearing those details, the Council agreed the fee may be too low and would consider raising the proposed fee from \$300 to \$500 for rock chipping. Mr. Miller

confirmed that \$500 is certainly justified and is not an arbitrary number but rather a professional judgment.

Mayor Cohn asked Mr. Miller to elaborate on why additional charges per \$1,000 on estimated work has not gone up, since the base fee did increase. He explained that 17 per thousand for residential construction and 30 per thousand for commercial construction is already on the high end of the scale. Councilwoman Hurd asked about reporting figures and Mr. Miller replied that construction cost reporting is different from sales price and that number is scrutinized to ensure the figures are correct.

Mayor Cohn asked if a partial and full demolition permit for commercial and residential structures should be in place instead of one demolition permit. Mr. Miller explained the fee is for a full demolition permit. A partial demolition project would be subject to fees associated with the improvement they are building, but not a demolition permit. Councilwoman Tagger-Epstein asked why the fee is the same for commercial and residential to which Mr. Miller explained it is almost the same process. He added that what is built will generate a lot of cost as it relates to a building permit fee, therefore a small house versus a large commercial property would experience the same demolition fee but the permit fee would vary greatly.

Mayor Cohn asked about sewer and storm drain to which Mr. Miller said he would have to look into those details as he was unfamiliar with what that fee encompasses.

Mayor Cohn asked if he thought the fee schedule should be subject to a year over year inflation increase. Mr. Millers reported that sometimes the inflationary increase will exceed the administrative cost and perhaps would not be applicable to all fees. However, he did verify that the fee schedule is reviewed by all departments on an annual basis and each line is thoughtfully adjusted accordingly. Councilman Mecca stated he does not like the annual increase because it should be reviewed annually by the Council and an annual increase would eliminate that process. Mayor Cohn liked the inflation adjustment but clarified that the right inflation index would need to be sought and the annual review would still need to be conducted. Councilwoman Souza and Councilwoman Hurd both agreed an inflationary increase makes sense, but the decision on how increases will be determined for future fee schedules did not need to be made at this current point in time, and there are other variables that may be involved in addition to across the board inflationary increases.

Mayor Cohn then asked on how Planning Department fees were considered to which Mr. Miller explained the same thought process as the building department fees. Mayor Cohn reported that there was a question if subdivision review should be higher. The concern is that overcrowding is a concern and perhaps the fee would deter those from applying for a subdivision. Mr. Miller explained that in this fee schedule, this is for the fee associated with the planning application and administrative time, and the issue of over-crowding and what is allowed to be subdivided is a policy issue and separate conversation. Mr. Miller also added there have only been one or two subdivisions each year over the past few years. The Mayor suggested the fee be left alone, to which the Council agreed.

Councilwoman Tagger-Epstein stated she thought an impactful area of fee change would apply to tree replacement fees. Mr. Miller explained that fee only currently applied to modification of tree preservation plans, but people rarely modify the plan. Mayor Cohn thanked Mr. Miller for his time and answering all of the questions asked of him.

Mayor Cohn asked the Deputy City Clerk, Euka Pietrosanti, to elaborate on a previous resident statement on why Taxi licenses should be increased, when the industry is currently under great competitive pressure and the City cannot assess the same fees to technology companies such as Uber and Lyft. Ms. Pietrosanti responded by stating the fee has not been increased since 2012, but more so, the increase was derived from the additional burden created on the Clerk and Police departments over the past several years. The application process has taken greater administrative time within the clerk's office as the applications are being reviewed and edited several times by the drivers and the fielding of calls throughout the year for customer mis-treatment or incorrect parking stall activity has required more police intervention. She added that the Clerk's Office did look into the cost of moving the license to the Westchester County Taxi and Limousine Commission, as other municipalities have done, and it would cost a total of \$225 between the background check, fingerprinting and issuance of the taxi driver license, where the City proposed fee is still lower at \$100. Councilwoman Souza asked if the licensing was given to the County then the drivers would be licensed in every municipality versus the City of Rye, which doesn't seem like a comparable. City Manager, Marcus Serrano, explained the driver would then need to go to each municipality to have their cab licensed so there are still additional costs separate from the Taxi Driver license. Councilwoman Souza asked what the total revenue is on this to which Ms. Pietrosanti explained the total revenue increase with the proposed fee equates to \$1,400. Mayor Cohn suggested the driver cab license be lowered to \$175 while the driver's license stay at the proposed fee of \$100 to which the Council agreed.

Mayor Cohn asked to explain what a Cabaret fee is and when is it applicable. Ms. Pietrosanti explained that the City Code defines a cabaret as any room, space, or place in the City of Rye in which any dancing is permitted in connection with the business of selling to the public of food or beverage of any kind. As a result, this permit would not be applicable to a private Country Club or an establishment such as Rosemary and Vine, playing jazz music. The business' primary activity must be dancing, along with selling food or beverage, therefore renting a space for a private party would not apply, unless it was an actual dance hall. Councilman Mecca asked how many were issued last year to which Ms. Pietrosanti replied zero. Further, she explained the budget forecast for 2019 is zero for this particular fee.

Mayor Cohn then asked when we charge for an Auctioneers permit and why. Ms. Pietrosanti explained that the City has had a history of selling an auctioneer permit most recently in 2015. There was one particular auctioneer who would come to Whitby Castle but that company is no longer in business. The fee was not changed since 2010 and the fee did not properly reflect the administrative time it took to process the application and be the liaison between the Auctioneer and Whitby Castle. However, the fee was not removed in anticipation of future auctioneers. Mayor Cohn added this permit is not applicable to non-for-profits to which Ms. Pietrosanti agreed stating there are a several exemptions including religious and educational organizations.

Mayor Cohn asked if the City was obtaining fair cost coverage as it relates to dry cleaning establishments. Ms. Pietrosanti reported that currently enforcement is not being conducted, the previous revenue has been zero and the forecasted revenue is zero, however the department can work with the correct department to reinstate this permit and follow the proper inspection protocol between the fire inspection and building department. Councilman Mecca explained in the City of White Plains, they issue a laundromat permit for \$100, as well as vehicle or car mechanic shop with a spray booth, in which the Electrical Inspector would process the annual inspection. Mayor Cohn asked the City Manager to pursue this further for implementation.

Mayor Cohn started the parking permit conversation by explaining that the Commuter Parking permit has been held to a 15% parking increase by the MTA. Further, Mayor Cohn acknowledged a commuter permit fee is a lot of money however, residents should keep in mind that the initial proposed fee of the permit, if broken down by 10 hours on 250 work days, equated to .40 per hour, which in comparison to neighboring municipalities and alternative parking options is still a good deal. Commuters should be aware that the fees will continue to increase as the years progress.

Councilman Stacks asked if the City staff could elaborate on the merchant parking fees. The City Manager confirmed that the fee was last increased in 2017. Councilwoman Souza asked how many we allocate to the downtown merchants to which Ms. Pietrosanti replied that the City sells a maximum of 500, although we currently have sold about 350 permits for the current year. Further, she explained the fee is considered annually and we take the feedback directly from the employees that are struggling to pay for the permits annually. Councilwoman Hurd confirmed that this is an issue that comes up at the Chambers meeting and we do not want to disincentive people from renting in the downtown if they cannot retain employees who cannot pay for parking. Councilwoman Goddard said if we look at the revenue the City would obtain from increasing this fee by \$50-\$75 per permit, versus the burden it would cause on the permit holder, the impact on the individual's income possibly outweighs the revenue. Ms. Pietrosanti added that more employees pay out of pocket than employers paying on their employees' behalf. Mayor Cohn suggested to leave the fee alone to which the Council agreed.

Mayor Cohn invited City Engineer and Superintendent of DPW, Ryan Coyne, to speak on two questions. The Mayor asked to elaborate on the bulky waste fee in which Mr. Coyne replied that it was a typographical error. The increase was to raise it to \$50, not \$250. The fee is only collected about 2-3 times a year and is used in the collection of large items, such as washing machines, but those are now part of metal so those fees have not been collected in a number of years. Mr. Coyne added that the question is if whether we want to be in the market of bulk pick up services. Councilman Mecca explained it is a service that is offered to residents as a courtesy and it is only used several times a year. Mr. Coyne added that the charge is only added when there is so much refuse that a single garbage truck cannot handle the volume in one pickup.

Mayor Cohn invited the Superintendent of Recreation, Sally Rogol, to clarify questions regarding recreation. Mayor Cohn asked why there was a 56% increase on basketball lights to which Ms. Rogol explained it was a typo. Mayor Cohn asked why a one hour lesson increased but a half hour lesson stayed the same. Ms. Rogol explained that the tennis lesson does not have revenue impact because the tennis instructor has a fee that cannot exceed. If a new instructor

were to come on contract, they most likely would not agree to pay those fees. It is a not to exceed fee versus a flat fee. Mayor Cohn asked Ms. Rogol's thoughts on inflationary fees to which she replied that both she and the Recreation Commission looks at the fees on an annual basis and determines how it relates to other communities and to make sure it is reasonable for the service that is provided. Her hesitation is that the inflationary increase might price out a certain services which would then eliminate the collection of that fee all together.

The Mayor stated that they will have one more conversation regarding fees at the next meeting and then finalize. Councilwoman Hurd asked if the City staff can see if any other municipalities are looking at an inflation-based increase and how their staff derives their fees.

6. Consider a motion to ratify the comment letter submitted by the Mayor to the Federal Communications Commission on September 18, 2018 regarding a proposed order relating to telecommunications equipment in the right of way.

Mayor Cohn explained they succeeded to obtain Congressman Engel put together a letter, as well as support letters from Senators Schumer and Gillibrand, but the FCC recently passed an order that the City and many other municipalities objected to. The order will likely be challenged in court and it will change the standard of review for small cell installations, limit municipalities to the fees they can charge with respect to the right of way, shorten the timeframes for municipal consideration and severely limit the ability to consider aesthetics.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein, and unanimously carried, to ratify the comment letter submitted by the Mayor to the Federal Communications Commission on September 18, 2018 regarding a proposed order relating to telecommunications equipment in the right of way.

7. Resolution to test certain traffic changes, including temporary closures of Grandview and Evergreen at High Street, temporary flow restriction of Grandview and Evergreen at their south ends and temporary restriction of turns from Hillside onto Boston Post Road to right turn only.

Mayor Cohn explained the origin of this request stems from the Rye Park neighborhood concern with the traffic pattern from the proposed United Hospital site. The prospective buyer is in the remaining days of the due diligence process. As a result, the community would like a test to see how the fundamental test would work for the community and for the City in general.

Nick Loddo, on behalf of the Traffic & Pedestrian Safety Committee, sat with the people of the Rye Park community and they were all in agreement with a trial period of Oct 1 through Thanksgiving, to see how this test would work. They do not have picket fences but DPW does have ideas such as installing temporary chicanes and where to put it. Councilwoman Souza asked if the entire neighborhood group was behind this trial in which Mr. Loddo replied yes. Further, Mayor Cohn reported the police will have to assist during the trial period. Corporation

Counsel Wilson added that the police would be able to issue warnings but would not be able to issue tickets until it was finalized within the code.

Mr. Coyne explained that barrier could be a hard plastic barrier but those details have not been determined. Signs on High Street, Grand Ave, and Evergreen Ave would need to be added, plus signs on Hillside to Boston Post Road. Councilman Mecca asked how trucks will u-turn on the dead end street and who will be responsible for the damage of when they drive over lawns and such. Councilwoman Goddard asked how success will be measured. Mayor Cohn stated that the community would talk though the success of the test and a public hearing would need to be set before any final determination is confirmed. Councilman Mecca was concerned that relying on the residents instead of the City to gather data will result in other neighborhoods wanting the same thing. He added he hopes this is safety focused and not United Hospital focused. Councilwoman Souza suggested home owners may find that people turning around in their driveway may be more disruptive than the actual traffic pattern change.

Richard Smith, 127 Evergreen Ave, in Rye Park neighborhood, explained there is an ad hoc Steering and Traffic Committee that has been involved since 2015 and submitted a petition in May 2017. The United Hospital property currently does not have an owner however when it was in the works, traffic mitigation was agreed upon. The neighborhood feels this test will start the process of upcoming unwanted traffic patterns. Further, he reported the City has asked for this test pattern to see if the neighborhood would be happy with the result. Councilwoman Tagger-Epstein added that TPS went through a number of traffic mitigation items and this particular one is hopeful on a safety aspect. Additionally, adding a light on Hillside may be necessary in the future.

Jono Peters, Ridge Street, stated he supported the project but wanted to encourage the city to consider future impact of Ridge St. and High St. and 5 points (Wappanocca Ave /Purchase St /Westchester Ave/120/ Ridge St). He asked the City to make sure it is doing proper traffic studies as to the impact of these possible changes. Mayor Cohn did confirm the first step of the Maser study did state the light at Ridge St. and High St. would need to be re-programmed.

Mayor Cohn explained that the test is not cost-invasive and will result in what questions to ask and how it will affect the neighborhood at minimal cost. Mr. Coyne said that the City can put signs and barriers up relatively easy, but a traffic count would need to be conducted. He explained that traffic is not at a high at the moment but it will result in other traffic patterns that will need to be reviewed. Corporation Counsel Wilson asked if there is a hard start date as additional time will be desired to ensure everyone is notified properly, to which Mayor Cohn confirmed there is not a hard start date.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein, and unanimously carried, to test certain traffic changes, including temporary closures of Grandview and Evergreen at High Street, temporary flow restriction of Grandview and Evergreen at their south ends and temporary restriction of turns from Hillside onto Boston Post Road to right turn only.

8. Consider a resolution to approve the hiring of John Micewicz as a consultant to the City Council's RyeTV subcommittee.

Councilwoman Hurd explained that sub-committee of the City Council created to review RyeTV has interviewed several consultants. They felt Mr. Micewicz is the best candidate due to his experience, he is local, and he understands the scope of the project. He will be looking to assess the needs to RyeTV and how it operates against other municipalities. He should perform the task in 6-8 weeks, at \$100 an hour (projected 60 hours), with a cap of \$10,000.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein, to approve the hiring of John Micewicz as a consultant to the City Council's RyeTV subcommittee, at a cost not to exceed \$10,000.

ROLL CALL

AYES: Councilmembers Goddard, Hurd, Mecca, Souza, Stacks, Tagger-Epstein, Mayor Cohn  
NAYS: None  
ABSENT: None

9. Adjournment.

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilwoman Souza and unanimously carried, to adjourn the special meeting into executive session to discuss attorney-client privilege matters, personnel matters and litigation at 10:54 P.M. The Council did not plan to reconvene in the special meeting.

Respectfully submitted,

Euka Pietrosanti  
Deputy City Clerk