

***APPROVED MINUTES*** of the Special Meeting of the City Council of the City of Rye held in City Hall on March 15, 2010 at 7:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
RICHARD FILIPPI  
PAULA J. GAMACHE  
PETER JOVANOVICH  
SUZANNA KEITH (Arrived at 7:09 p.m.)  
CATHERINE F. PARKER  
JOSEPH A. SACK  
Councilmembers

ABSENT: None

1. Pledge of Allegiance

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

2. Roll Call

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

Prior to the beginning the agenda topics, Mayor French offered his thanks to the City Manager and Police Commissioner for their communications to the Council during the weekend storm and asked City Manager Culross for an update. Mr. Culross said that this storm was more of a coastal storm and did not involve riverine flooding. He said that both the Department of Public Works (DPW) and Con Edison were still actively involved in the storm and recovery. He advised people to go to ConEd.com in order to trace progress on power outages and said that it will take the DPW a few more days to clean up from the storm.

3. Review of 2009 budget results

City Comptroller Jean Gribbins began by saying she would be speaking about the economic sustainability of the City. She said her reference to Capital Projects included not only Capital Projects, but Building Projects and City Vehicles. She advised that the City needs to take careful steps in order to improve its financial position in the short term and sustain it in the long term. Challenges the City faces include maintaining and strengthening its Fund Balance and cash positions, the payment of the \$5 million balloon payment due to Aero Hardware and Parts on May 1<sup>st</sup> for the building at 1037 Boston Post Road, and addressing the 2011 and future budgets. In the past, the General Fund Budget has been designed to use Fund Balance to pay for

Equipment and Capital Projects. City Policy allows unreserved and undesignated fund balance to be appropriated as part of the adopted budget to fund capital, emergency or unusual and non-recurring expenditures or expenses. It should not be used to fund operating expenditures and expenses in the adopted budget. The policy does not prohibit the use of operating revenues for capital expenditures and expenses. This was sustainable when revenues outperformed what was budgeted, creating a surplus to use for capital and equipment purchases. Over the past four years the amount of Fund Balance used for Capital Projects in each budget has decreased, with the city budgeting less towards equipment purchases and capital projects. General Fund Fund Balance is shrinking and the City needs to stop dipping into Fund Balance and should consider going out for more debt and budgeting for capital and equipment purchases as part of operating expenses, rather than using Fund Balance.

Ms. Gribbins said that in 2009, the City reacted to falling revenues by cutting expenses. Most of the expense reductions came from deferring purchases that will ultimately need to be made, because some expenses can only be deferred for so long before service levels are negatively affected. The preliminary Unaudited Results for 2009 show the City with an operating profit of over \$900,000. Actual expenditures came in almost \$1.5 million below budget and over \$670,000 below forecast. Transfers to Capital Projects of \$1.7 million offset the profit and resulted in use of \$821,000 of Fund Balance. Cost cutting done in 2009 was factored into the 2010 Budget. By Financial Policy the lowest allowable level of Fund Balance is 5% of expenditures. After 2010 the \$1 million "safety net" is all that will be left to absorb operating losses for all years moving forward and using the "safety net" will bring the Fund Balance to a low level of only \$1.4 million, which is uncomfortably low. Since Fund Balance is 5% of expenditures, as expenditures fluctuate, the required amount in Fund Balance fluctuates.

4. Presentation on the City's cash position with an overview of budgeted projects

The City seems to have a comfortable cash position right now, but has almost \$5 million less cash at the end of 2009 that it did at the end of 2006. The City has obligations, which include \$5 million owed to Aero Hardware and Parts Inc. When obligations are subtracted from cash on hand, the City's cash position is weaker. The City authorized debt dating back to 2006 for Capital projects that were to be paid for with bonded money, but has not gone out for debt since 2005. The City should now borrow money to replenish the cash that was spent in 2006. The City has paid for Capital Projects such as the Elm Place Wall out of its own funds during 2007, 2008 and 2009, but has yet to receive the reimbursement money from FEMA. The City also spent over \$1 million in funds for the acquisition of the Bird Homestead that were supposed to be reimbursed, but have not been received yet. The City is owed over \$4 million in unissued debt or amounts owed from others and has run out of cash it can lend out or spend before it is reimbursed. The City may have to explore the possibility of Grant Anticipation, or short term borrowing in the future in order to fund capital projects that it will be reimbursed for. There are three projects in the 2010 Budget that will be paid for, either all or in part, by Federal and State reimbursement grants, but projects that seem to be "at no cost to the City" become costs when the reimbursements are delayed or not received.

5. Analysis of the City's cash flow position and the challenge presented by the \$5.0 million payment due to Aero Hardware and Parts in conjunction with the City's acquisition of 1037

Ms. Gribbins said that the next major financial obstacle the City faces is the \$5 million balloon payment due to Aero Hardware and Parts (Aero Hardware) on May 1, 2010. The City has entered into an agreement to extend this deadline for two years, but it will be very expensive for the City. The interest rate will be 5.75%, which will cost the City \$24,000 a month in interest every month after May 1, 2010. Another factor is the gross up of the amount due in order to negate the Capital Gains tax increase that is scheduled to happen in 2011, which would increase the balloon payment to \$5,312,500. Ms. Gribbins proposed the City make five installment payments of \$1 million each on May 1, July 1, September 1, November 1 and December 1. This schedule would cost the City about \$96,000 in interest in 2010. \$192,000 has been budgeted in interest on the extension of the payments beyond 2010. The proposed payment schedule would create a budgetary savings of \$96,000 in 2010 and avoid the Capital Gains Gross Up in 2011 as well as allowing the City time to evaluate the cash flow impact on a regular basis. A Resolution presenting the payment plan will be submitted to the Council.

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Ms. Gribbins said that a Resolution will be submitted to the Council at the March 24 Council meeting to go out to bond for the following projects totaling \$1,372,000.

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| • Theodore Fremd Wall            | \$280,000 |
| • Central Avenue Bridge          | \$360,000 |
| • Bowman Avenue Sluice Gate      | \$322,000 |
| • Old Milton Road Drainage       | \$210,000 |
| • Peck and Midland Traffic Light | \$200,000 |

There is also \$2,080,000 of authorized and unissued debt that the City is authorized to borrow that would bring the total bond issue to \$3,452,000. She said it was important to go out for debt as soon as possible since the debt refunding just closed on March 10 and we would only have to update the OS for 2009 audited results. It would also save money on fees with the Bond Counsel, financial advisors and the Rating Agency. The City will also be able to take advantage of the current low interest rates. She said she would like the Council to ask the Finance Committee to review the City's debt limits in the Charter because the current limits are very restrictive given current economic conditions.

Staff will be asking to defer a number of Capital Projects that were to be funded using Fund Balance, pending receipt of the case advances for the Elm Place Wall and the Bird Homestead acquisition.

6. Preliminary assessment of the 2011 Budget and the impact of a 5% budget reduction in 2011

Ms. Gribbins said the challenges facing the 2011 Budget include a decrease in assessed values; overall cost increases; increased health insurance costs for existing employees and retirees; potential additional reductions in State Aid; reductions in Mortgage Tax Revenues; reductions in Sales Tax Revenues and funding capital and equipment purchases through operations. On a positive note, due to the refunding of four issues of the City's debt, the organic increase in debt service principal and interest payments will be offset by the savings gained on refunding and paying off the \$5 million to Aero Hardware will save interest that would have been due on the extension.

City Manager Culross said that at first look, repeating the 2010 service levels would require an 11% tax increase. Assessed values are expected to be 1% lower and elastic revenues flat. In order to keep the tax rate flat, \$2.1 million must be cut from the budget or 7% of the current budget, which will impact service levels. Last year the bulk of the operational cuts were taken by the General Government services group, with several departments losing people, but cannot take much more of a cut. The Police could not take a 10% cut. The Recreation Department, the Library and the Department of Public Works might be looking at 10% cuts. Where spending can be deferred, it will be in order to grant the Council as much flexibility as possible.

Council questions and comments relating to all topics:

- With a growth in expenses and decrease in revenue, business as usual is unacceptable. City Management and the Finance Committee should look at structural changes.
- What capital projects could be deferred to 2011? (The Boston Post Road Retaining Wall design; CBD Traffic Light at Purchase/Purdy/Theodore Fremd design – if the design on these projects were deferred to the end of 2010 it would not impact the ability to do them in 2011; Milton Cemetery Bridge ; Stoneycrest Road Drainage design ; Police/Court Renovation study ; Gagliardo Park Restroom project and Meeting House project. This would defer \$544,000. Additionally two pieces of Public Works Equipment could be deferred for \$520,000. If necessary, part of the street resurfacing could be deferred as a last resort. This would be done to manage cash flow.)
- What new projects would be bonded? (The City share of the Theodore Fremd Avenue Wall, Central Avenue Bridge and the Bowman Avenue Sluice Gate; the Old Milton Road Drainage and the Peck and Midland Traffic Light.)
- Is it simplistic to say that the cushion that the Fund Balance has provided is now gone? (That is the way the Fund Balance was designed, so that revenues that came in over budget were to be used for capital projects. Now that revenues are coming in under budget, the City does not have the surplus to fund capital projects.)
- What is the purpose of the extra \$2 million in bonding? (Without the cash the City cannot pay Aero Hardware. The money will replenish the cash used to pay for projects from the General Fund in 2006.)

- Is Bond Counsel certain that the \$2 million can be used for the purposes the City wants? (The purpose in the Resolution will be for the purposes that the money was advanced. The City can borrow money that was paid out in the past.)
- Can the City take money from other areas to pay Aero Hardware – doesn't it have to go to a referendum? (The replenished cash will be used to pay Aero Hardware. Paying Aero Hardware in 2010 avoids the expense in the 2011 budget of the increased interest payments.)
- Who is the City waiting to be paid from in connection with the fire truck purchase and Police Building Improvements? (The City is reimbursing itself for money that the General Fund lent to the Building and Vehicle Fund.)
- What projects were covered by the \$2 million of authorized bonding? (Police Building Improvements in 2006, the Fire Ladder Truck in 2006, the Theall Road Reconstruction project and the Upper Dogwood Sewer.)
- Is there anything that can be done to get the reimbursement money for the Elm Place Wall and Bird Homestead in faster? (The Elm Place wall is FEMA money that the City is fully submitted for. When the City asks FEMA for updates, we are told it is not ready.)
- How would exploring the level of debt requirements in the Charter impact the City's Aaa rating? (Using more and more Fund Balance could affect the Aaa rating. The City has to evaluate its amount of debt and the amount of Fund Balance and address the issue. The debt restrictions in effect are in a Charter that was approved in 1960 and worked in the past but will not work in the future.)
- Are Buy American Bonds programs still available? (The Finance Committee can look into it.)
- Are we waiting longer for reimbursement on projects than in the past? (Every agency in Albany has taken a 20% cut in their operating budget, which does have an affect. The Bird Homestead grants are a combination of State, County and Federal grants and that reimbursement is more speculative. The City has received requests for additional information on two of the grants. The City prefers receiving an award letter before obligating the City for its share of the funding.)
- Is there any possibility that the City Manager's proposed budget will come out earlier than November in non-election years? (It would be more useful to deal with service level alternatives and what the implications would be rather than introducing the budget document earlier.)
- Regarding the budget process, the three governing principles the Council would want to use are: (1) let the professionals come back with a financial and operational plan; (2) empower the Boards and Commissions to vet the ideas; and (3) engage the public.
- The City Manager should work with the Department Heads and the Library early on regarding the issues.
- How much can the City borrow now without having to have a public referendum and how do Grant Anticipation Notes factor into that amount? (Grant Anticipation Notes may not fall under the bonding restrictions of the Charter because they are short term funds that will be reimbursed. In the 2010 budget subject to City Council vote, \$1,390,040 borrowing can be authorized; \$1,642,610 can be

borrowed under permissive referendum and beyond that amount a public referendum is required, except for the public safety exemption.)

- What about the deferred projects that utilized Rec Bond funds? (The proposal is to put the money aside to pay the debt on the bonds.)
- Why was the Council told last year that the Rec Bond money could not be used to pay the debt? (85% of the money was supposed to be spent within the first three years. The City is trying to mitigate that, and one of the ways is to set aside part of the money. The intent had been to spend the money on projects and apply any left over to the debt.)
- How much of the Rec Bond money was left prior to being earmarked for projects? (\$890,000)
- Why are we deferring projects if the money has to be used? (The Bond Attorney told the City that the money could be re-appropriated. The suggestion is to defer spending the money at this time in 2010. The City has more information now than it had several months ago.)
- Will there be any penalties if the Rec Bond money is deferred any further? (The amount has been mitigated by spending \$414,000 for the Rye Town Park Roof project and the \$226,500 in the 2010 budget for Damiano improvements.)
- Explain how the draw down of the Fund Balance will affect the City? (The rating agencies have noted that the Fund Balance has gone down. The City's financial position is still strong, but not as strong as it was four or five years ago.)
- Is there concern that the Aaa rating might be at risk? (There is concern the rating might be at risk if nothing is done.)
- City Management should not only look at service levels, but also how departments could be restructured to be more efficient.
- How long is the public referendum process? (The City's best practice is to only have public referendums as part of the general election in November. The Council would have to pass a Resolution at the August 11<sup>th</sup> Council meeting to allow 60 days to meet the publishing requirements. If adopted, the money might be available in the beginning of 2011.)
- Will deferring the Purchase/Purdy/Theodore Fremd traffic light design impact being able to implement the project? (If it was deferred for the whole year, it would slow the project but it could still be constructed in 2011.)
- Isn't the Stoneycrest Sewer design tied to the Forest Avenue study? (If a sidewalk is built on Forest Avenue, there must be an understanding of the location of the Stoneycrest sewer.)

Public Comment:

Members of the public commenting included *Arthur Stampleman, David Blank, Laura Leach and Warren Keegan of the Finance Committee and Robin Jovanovich*. Their comments and questions included:

- Is any of the proposed \$3,450,000 borrowing to cover funds that are expected to be reimbursed? (It is only for long-term borrowing for the life of the projects and will not require a referendum.)

- The policy of only using Fund Balance for capital expenditures is only about 10 years old.
- Would deferred projects be done once reimbursement money is received? (Unless the economy deteriorates further.)
- Is the City involving its elected officials at the State level to press for collection of FEMA monies? (It is outside their purview.)
- What services could be affected by deferred projects? (There is a certain level of expenditures that must be done on an annual basis and the levels may not be met at the current rates.)
- How does the increase in bonding affect the 2011 tax increase? (The increase in bonding is offset by the savings from the refunding.)
- Does the \$1 million reimbursement for the Bird Homestead come from FEMA? (None comes from FEMA. It comes from four different sources: The State Office of Parks, Recreation and Historic Preservation; New York State Strategic Investment Program; Westchester County; and Long Island Sound Stewardship. Additional monies are owned to the City by the Committee to Save the Bird Homestead.)
- If the City issues \$3.4 million of debt will the money be set aside to pay Aero Hardware or to continue other projects? (\$1.372 million is for new projects.) Where would the additional money come from to reach the \$5 million for Aero Hardware? (From money in the bank now and from expected reimbursement money from FEMA.) Will there be any money to spend on Capital projects? (No)
- Has the City looked at restructuring to find savings for the 2011 budget that will still be consistent with the City's mission? (This is being done. The Police Department and Public Works Departments are smaller than they were in 2009.) Is restructuring, such as integration with neighboring communities, a possibility? (Maybe not for 2011, but going forward the City will have to look at different ways of providing services, such as contracting services, but the community must be willing to accept this.)
- How much was saved by the refunding? (Cash savings of over \$900,000 over ten years, with a present value saving of about \$800,000 for the ten years. For 2010 about \$90,000.)
- Is there anything that can be done in the City to limit benefits for new employees?

Additional Council questions and comments:

- Is there a provision in the agreement with the Save the Bird Homestead Committee for them to make up the onerous fees the City will have to pay relative to 1037 Boston Post Road? (The Committee is contractually obligated to pay the City whatever grant money does not come through. The interest they pay is tied to our investment, not our costs.)
- Bond Counsel should attend the March 24<sup>th</sup> City Council meeting to answer questions.
- Could the Finance Committee look into further shared services with the Board of Education.
- What is the current interest rate? (The refunding rates range from 2 to 4% depending on when the issues mature.)
- An analysis should be provided of the incremental growth in major City Departments due to health costs, contracts, pension costs, etc. over one, three and five year intervals to determine what would happen if no action is taken by the City.

- The 0% increases budgeted for labor contracts in the 2010 budget could result in a shortfall.
- The 2010 budget was a reset budget. Structural changes must be made. Staff should come up with a financial and operational plan. The Finance Committee should look at policy changes that must be made.
- Plan for a flat tax increase. Don't look at integrating services yet.

7. Adjournment

There being no further business to discuss, Councilman Sack made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn the meeting at 8:40 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk