

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on April 21, 2010 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
RICHARD FILIPPI  
PAULA J. GAMACHE  
PETER JOVANOVIK  
SUZANNA KEITH  
CATHERINE F. PARKER  
JOSEPH A. SACK  
Councilmembers

ABSENT: None

The meeting convened at 7:34 p.m. Councilman Filippi made a motion, seconded by Councilwoman Parker and unanimously carried, to adjourn into Executive Session at 7:35 p.m. to discuss litigation. Councilman Filippi made a motion, seconded by Councilman Sack and unanimously carried to adjourn the Executive Session at 8:02 p.m. No decisions were made. The regular meeting convened at 8:07 p.m.

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.

3. General Announcements

- The Boat Basin accepts plastic wrap from boats for recycling.
- The City Council will begin interviewing for the City Manager position on May 15, to hopefully have someone in place by July 1<sup>st</sup>.
- In June the Council should be ready to post for the Corporation Counsel position and begin the interview process.

In addition, several announcements were made regarding events, programs and activities held by the County, School District, Library and various local organizations.

4. Draft unapproved minutes of the regular meeting of the City Council held April 7, 2010 and informal minutes of the Joint Meeting of the City Council and Board of Education held on April 10, 2010

Councilwoman Keith made a motion, seconded by Councilman Filippi and carried by voice vote with Councilman Sack abstaining, to approve the minutes of the regular meeting of the City Council held on April 7, 2010, as amended.

Councilman Filippi made a motion, seconded by Councilwoman Gamache and carried by voice vote with Councilman Sack abstaining, to approve the informal minutes of the joint meeting of the City Council and Board of Education held on April 10, 2010.

5. Residents may be heard who have matters to discuss that do not appear on the agenda

*Peter Julian, 20 Onondaga Street*, requested that the Council consider changing the law that prohibits parking on Parsons Street prior to 8:30 a.m. in order to accommodate drop-off at the School. He said he would like it changed to 8:00 a.m. Assistant City Manager Pickup advised the Council that the prohibition on parking until 8:30 a.m. was put in place because students were parking in the drop-off area prior to 8:00 a.m., which impeded the drop off process.

*Jordan Glass, Esq., an attorney representing Ray Tartaglione*, urged the Council to act on violations on Hen Island by providing information to the County Health Department in order for them to take action. He quoted from three sections from Chapter 161, Sewers, of the Rye City Code that required action on the part of the City. Mayor French indicated that the Chapter of the Code that Mr. Glass quoted from dated back to the 1950s, prior to the establishment of sewer districts with the County, which is now the enforcement mechanism. Interim Corporation Counsel Wilson said that the County is essentially the City's Health Department for purposes of enforcing sanitary violations. Mayor French indicated that the Council could look at repealing sections of the Code to make sure it is up to date. Councilman Sack said he would like the Council to take a comprehensive look at the issue in order to take a position. *Martin Ederer, a summer resident of Hen Island*, said that the island has been inspected many times by the Health Department and deemed to have no violations. Mayor French reiterated that the Council will not get involved in a public dispute between residents of Hen Island where the City has no jurisdiction. *Ray Tartaglione*, said that a letter he received from Commissioner Myerson of the Health Department last year indicated that the County will not respond to reports of violations unless the City of Rye initiates their response.

*Chuck Pateman* spoke on behalf of Robert and Rita Schubert. He said that on March 8, 2010 he had submitted an application to the Planning Commission regarding the Schuberts' wetland issue and received a letter from Interim Corporation Counsel Wilson indicating that she was reviewing the submission. He also submitted a letter to the Building Inspector on March 15, 2010 advising him that the Gates' property was in a flood plane, which has received no response. He said it was the duty of the Council to see that City Boards respond to applications. Interim Corporation Counsel Wilson said that her letter responded to the submissions received by both the Planning Commission and Building Inspector and she is working with them on how to properly review the submissions. If it is deemed appropriate for it to go before the Planning

Commission, it will. She said the matter is closely related to a matter under litigation. Mr. Pateman indicated that although he is not an attorney, he has the authority to settle the pending litigation between the Schuberts and the City if the City agrees to investigate the matter. Councilman Sack said that if, in fact, a settlement offer has been conveyed, the Council will meet with its attorneys and discuss it in an attorney/client privileged session.

*Sis D'Angelo, Wappanocca Avenue*, said that the Council was still in a rut. She said there are too many people on boards and commissions for too long and if they don't know what they are doing, it is time for them to go.

6. Mayor's Management Report

- Presentation of an *Evening of Dancing* event to be held on Purchase Street

Allen Clark asked that the City Council support a proposal for Rye's first "Dancing in the Street" event to be held on Purchase Street on an evening in late June, possibly in conjunction with the 350<sup>th</sup> Anniversary of Rye. He offered the help of volunteers to organize the event and requested that Purchase Street be blocked off from the Arcade Building down to just before Purdy Avenue from 6:00 to 9:00 p.m. There would be DJs and live music in possibly three different spots. Six or seven police officers would be necessary and would be paid for by the organizers. The Chamber of Commerce would be asked to encourage the stores, particularly the restaurants and food stores, to remain open and the City would be asked to issue three-hour special permits for sidewalk seating. It is hoped that the City DPW could handle the clean-up after the event. The organizers will seek a corporate sponsor for the event if possible, and believe the event will cost between \$3,000 and \$3,500. Mr. Clark believes it will be easier to get a corporate sponsor if they already have the approval of the Council. Interim Corporation Counsel Wilson advised Mr. Clark that the organizers would also have to provide the City with insurance.

Council comments included:

- It is a terrific idea.
- The merchants have discussed it and consider it an interesting idea, but it will require a lot of volunteers.
- The idea needs to be "fleshed out" more before being brought to the Council for approval.
- The City needs to know what its liability would be.
- The organizers should cover all the costs.
- If the idea is to dance outdoors, what about Rye Town Park. (Part of the idea is the chance to bring people downtown.)
- The Council needs more information on what the DPW costs would be and is not ready to make a decision tonight.

Agenda item #7 was taken out of order at this time.

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Prior to returning to the Mayor's Management Report, Mayor French recognized former City Court Judge Peter Lane who wished to speak on Agenda item #11 regarding the reorganization of the Law Department. Judge Lane praised Interim Corporation Counsel Kristen Wilson and her colleague Darius Chafizadeh and urged the City Council to hang on to them, saying they were good lawyers, very professional and presented a good face for the City in court. Councilwoman Parker pointed out that Ms. Wilson and Mr. Chafizadeh were employed by the same firm and that it has been recommended that the Corporation Counsel and Deputy Corporation should be from different firms. Judge Lane said that although the report presented options, the ultimate choice was the City Council's. Councilman Sack said the Council has to decide on the best fit for the City by weighing the pros and cons associated with using people from the same firm.

- Rye Town Park Security Review

Mayor French noted that the park would be opening for the beach season and there was coordination between the Rye City Police and Rye Town Park Security. Bishop Nowatnik and Fred Gioffre from the Town of Rye were present. A report on park security was presented by Mr. Gioffre, who said:

- Safety is the most important issue at Rye Town Park.
  - There have been no pedestrian auto accidents in the three seasons that he has been at Rye Town Park.
  - Park Rangers focus in on the protection of pedestrians and trees and shrubs from vehicles.
  - The use of ropes has been implemented this year up the road on the right side of the pond to prevent cars from getting into the park on that side.
  - Small stakes have been put around the trees in or near the parking area to protect them from cars.
  - Three more parking attendants will be hired to guide cars to parking spaces.
  - They are looking at making the horseshoe around the park one-way in and one-way out.
  - There will be two cashier stations opened at the entrance between the hours of 10:00 and 2:00 on Friday, Saturday and Sunday to alleviate the traffic that backs up onto Forest Avenue and rangers will be out on the street directing traffic.
  - The parking attendants will remain in the evenings.
  - In an emergency situation the rangers contact him or their supervisor who then contact the Rye Police. Rangers cannot issue violations only the Police can.
  - They also work closely with the County Police.
  - Security guards are on duty day and evening from mid-May until October or mid-November. Park management personnel are on duty from April 1<sup>st</sup>.
  - There is security at the pay stations and security personnel remain in the park until midnight and all cars are out of the lot.
  - A meeting will be held with the Rye Police Department to set up new protocols.
  - During the season, up to 6,000 people are moved in and out of the park and beach safely during a week. There are only about 14 days during the season when the park gets full.
- Launch of the new City of Rye Website

Mayor French noted that the City had launched its new website and offered congratulations to IT Coordinator Kerry Donahue and City Planner Christian Miller for their work on its design. He encouraged everyone to go onto the site.

7. Approval of the election of the Chiefs of the Rye Fire Department

Councilman Sack made a motion, seconded by Councilman Filippi and unanimously carried, to approve the election of George Hogben as Chief of the Rye Fire Department; Anthony Scarfone as 1<sup>st</sup> Assistant Chief; and Michael Taylor as 2<sup>nd</sup> Assistant Chief held at the Annual Fire Department meeting in April.

8. Authorization for City Manager to execute Assumption Agreement transferring Control of franchise agreement between City of Rye and NEON Optica, Inc. to Yankee Metro Acquisition, LLC

Councilwoman Keith made a motion, seconded by Councilman Filippi to adopt the following Resolution:

**RESOLVED**, that the City Manager is hereby authorized to execute an Assumption Agreement transferring control of the Franchise Agreement between the City of Rye and NEON Optica, Inc. to Yankee Metro Acquisition, LLC

ROLL CALL:

AYES: Mayor French, Councilmembers Filippi, Gamache, Jovanovich,  
Keith, Parker and Sack  
NAYS: None  
ABSENT: None

The Resolution was adopted by a 7-0 vote.

9. Authorization for City Manager to enter into an Inter-municipal Agreement with Westchester County for the Mutual Aid and Rapid Response Plan for the Police Departments of Westchester County

City Manager Culross said this was a continuation of an existing agreement whereby all the Police Departments in the County agree to provide a mutual aid rapid response plan to assist each other.

Councilwoman Keith made a motion, seconded by Councilwoman Gamache, to adopt the following Resolution:

**RESOLVED**, that the City Manager is hereby authorized to enter into an Inter-municipal Agreement with Westchester County for the Mutual Aid and Rapid Response Plan for the Police Departments of Westchester County, for a five-year period commencing July 31, 2010 through July 30, 2015.

ROLL CALL:

AYES: Mayor French, Councilmembers Filippi, Gamache, Jovanovich,  
Keith, Parker and Sack  
NAYS: None  
ABSENT: None

The Resolution was adopted by a 7-0 vote

10. Consideration of setting a Public Hearing to amend Chapter 177 of the Code of the City of Rye to grant an exemption to Cold War veterans who meet the requirements of Section 458-b of the New York State Real Property Tax Law

City Manager Culross said that the State has authorized the exemption, the County approves it and the Assessor recommends it. The impact to the City is relatively small. The current exemption averages about \$33 per year and involves 17 people. Under the amendment the exemption would increase to approximately \$144 a year.

Councilman Filippi made a motion, seconded by Councilwoman Parker and unanimously carried, to adopt the following Resolution:

**WHEREAS**, the Council wishes to amend Chapter 177, Taxation, “Cold War Veterans Tax Exemption,” of the Code of the City of Rye; and

**WHEREAS**, it is now desired to call a public hearing on such proposed amendments to the law, now, therefore, be it

**RESOLVED**, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on May 5, 2010 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

Section 2. Such notice of public hearing shall be in substantially the following form:

**PUBLIC NOTICE  
CITY OF RYE**

**Notice of Public Hearing to amend Chapter 177, Taxation, “Cold War Veterans Tax Exemption” to the Code of the City of Rye.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the **5th day of May 2010 at 8:00 P.M.** at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal to amend Chapter 177, Taxation. Copies of said local law may be obtained from the office of the City Clerk.

Dawn F. Nodarse, City Clerk  
Dated: April 27, 2010

11. Discussion of proposed re-organization of the Legal Department

Mayor French said the objective of this discussion was to get Council feedback on the report in order to come back with a “strawman organization” sometime in May.

Former Mayor and Judge John Carey said that the report prepared by himself and Councilman Sack urged that the City save money by getting control over the legal affairs of the City. Three ways suggested to accomplish this are: (1) negotiate fixed prices with law firms rather than an hourly rate; (2) City legal staff should handle most of the litigation; and (3) require the legal staff to report in detail on what they do. He offered to assist at no cost to the City if he was designated “Of Counsel” or “Special Counsel” in order to avoid confidentiality problems.

Interim Corporation Counsel Wilson offered a brief summary of “a day in the life of the Corporation Counsel.” She touched on five broad areas she is involved with:

- General Corporation Counsel matters, which include holding office hours twice a week to assist staff in responding to FOIL requests, meeting with departments, answering questions regarding procedures, legal claims, agenda items, drafting local laws and resolutions, responding to emails; appearing in Rye City Court on Thursday and Friday mornings; and attending tax certiorari matters.
- Overseeing special Counsel matters.
- Overseeing insurance matters such as torts, negligence and claims that the insurance carrier handles.
- Conferring as necessary with Labor Counsel, currently Vincent Toomey, Esq., who handles grievances, arbitrations and labor contract negotiations.
- Non-insurance litigation, where no coverage is involved. Currently there are four pending Article 78s, a breach of contract matter, an administrative proceeding and a declaratory judgment action.

Mayor French said the scope of the discussion would include:

1. How the Corporation Counsel is paid - salary vs. hourly billing.

2. The relationship with a named municipal law firm to handle case overflow and the administrative support expense that a firm would take on.
3. The organizational fit for a Deputy Corporation Counsel – should there be one and, if so, is it an employee of the City or from a retained firm.
4. Where is the City oversight in labor and insurance litigation matters?
5. What is the role of a Litigation Case Management Committee as an advisory board to review bills?

Councilman Sack asked Ms. Wilson to provide the Council with an accounting of her time for items that are not currently covered under the Retainer Agreement. He also referred to two points from his and Judge Carey's report that highlight proposed benefits to the City: (1) the City will save money on legal expenses by appointing a Corporation Counsel and Deputy; (2) the City will receive better and more efficient legal services. Judge Carey said that if the Corporation Counsel and Deputy were from separate firms conflict of interest problems could be avoided. He also said that the City Council should approve the selection of any outside counsel used and that no lawyer should be hired unless someone has watched them in court or reviewed their written work.

Council comments and questions included:

- Wouldn't a Case Management Committee provide the City with added expertise in choosing appropriate outside counsel? (It might present confidentiality problems.)
- Policy should not be made based on one instance where there was a conflict of interest.
- Some of the recommendations in the report are too restrictive.
- The City needs the best people for the job. Attorneys having a professional relationship could be a benefit.
- Lawyers coming from two different firms could prevent a situation where one attorney is beholden to another.
- The Law Department should be structured as other City Departments with a reporting line, not two independent parties who could be in competition. (Two people with independent ideas could be beneficial to the City.)
- The City Council and the Corporation Counsel already serve as the Case Management Committee. The Counsel vets their questions through the Corporation Counsel.
- A Deputy Corporation Counsel disagreeing with the Corporation Counsel could place the Council in the middle of two opinions.
- To whom would the Corporation Counsel and Deputy report? (Whoever has asked them for an opinion. The Deputy reports to the Corporation Counsel.)
- The idea is to reduce costs by not sending cases to outside counsel as frequently.
- Two part-time attorneys could grow to be two full-time attorneys.
- Receiving the advice of other attorneys in town regarding what is reasonable in billing would be helpful.
- How can the legal bills be managed going forward? (They should be reviewed by the Council and negotiated with the lawyers.)
- A Case Management Committee could be helpful in reviewing legal bills.

Mayor French summed up the discussion by saying the next step would be to put together a "strawman organization" based on the feedback received, which would include a Corporation

Counsel, a Deputy, a law firm that would handle potential overflow, outside counsel and a possible Case Management Committee, with a goal of better management of legal costs.

12. Proposal for term limits on Boards and Commissions including term limits for the City Council

Councilman Sack said that although he is in favor of term limits, his sense is that no one else on the Council favors them. He would like to have a discussion about the pros and cons at the Council level, but does not want a contentious dialogue. Councilwoman Parker said she believes that elections provide term limits and people who volunteer for the boards and commissions provide the City with an expertise and set of skills that can be difficult to replace. Councilman Filippi said the Council has so many issues it is dealing with now and suggested the issue of term limits be tabled. Mayor French concurred with Councilman Filippi's suggestion.

13. Consideration of establishing the Rye Governmental Policy and Research Committee

Mayor French said that at the last meeting the Council had discussed getting a committee in place to identify legislation and land use projects that could affect the City or potential grant opportunities. The changes that were suggested have been incorporated in the current draft of the Resolution.

Councilman Jovanovich made a motion, seconded by Councilman Filippi, to adopt the following Resolution:

WHEREAS, the volunteer committees in the City of Rye (the "City") perform a critical function in the City by advising the City Council on important issues that are relevant to the daily operations within the City, the adjoining municipalities (especially the communities along the Long Island Sound), the State of New York and the federal government that impact the City; and

WHEREAS, legislation proposed and adopted by the federal, state and county governments impact the City; and

WHEREAS, regional projects involving environmental resources, transportation corridors, and other infrastructure related projects developed or approved by the federal, state, county and local governments impact the City; and

WHEREAS, the City should be aware of federal, state, county and other regional grant opportunities for which the City may qualify; and

WHEREAS, it is desirable to have a Governmental Policy and Research Committee (the "Committee") to identify, research, investigate, study, understand, monitor and advise the City Council on issues as outlined above that may impact the City;

NOW, THEREFORE, BE IT RESOLVED, that the City of Rye Governmental Policy and Research Committee is hereby established; and be it further

RESOLVED, that the Committee shall consist of no less than seven (7) members and no more than nine (9) members, all residents of the City, to serve three-year terms; and be it further

RESOLVED, that the initial appointments shall be staggered with three one-year terms, three two-year terms, and three three-year terms, and be it further

RESOLVED, that if only seven members are initially appointed, the appointments shall include three one-year terms, two two-year terms and two three-years terms; and be it further

RESOLVED, that the members of the Committee shall be appointed by the City Council and that one member shall be designated by the Mayor as Chairman, and be it further

RESOLVED, that the Committee shall not act as a representative of the City or as a lobbyist on behalf of the City and it is not authorized to attempt to persuade other governmental or non-governmental organizations to adopt policy or legislative positions, and be it further

RESOLVED, that the Committee shall have the following duties and powers:

1. Establish Committee rules and procedures for meetings;
2. Identify, research, investigate, understand and monitor the different policies and projects being proposed and adopted by the federal, state, county and local governments and how they may impact the City; and
3. Advise the City Council with respect to both proposed and adopted legislation, policies and/or projects that may impact the City; and
4. Advise and/or recommend to the City Council what legislative proposals the City should consider implementing to better comply with other federal, state, county and local municipal laws and policies.

ROLL CALL:

AYES: Mayor French, Councilmembers Filippi, Gamache, Jovanovich, Keith, Parker and Sack

NAYS: None

ABSENT: None

The Resolution was adopted by a 7-0 vote.

Mayor French asked anyone interested in serving on the Committee to send an email to mayor@ryeny.gov.

14. Resolution to declare certain equipment as surplus  
Roll Call.

City Manager Culross said that the list consisted of seven automobiles and one boat, which would be sold at on-line auction. The list of vehicles being declared surplus is as follows:

2000 Ford Crown Vic, Vin # 2FAFP71W2YX110410, Mileage 58,030  
2007 Ford Crown Vic, Vin # 2FAHP71W07X114298, Mileage 69,697  
1986 Chevy Lumina, Vin # 2G1WL52M8W1127583, Mileage 29,361  
1998 Chevy 2500, Vin # 1GCGKZ4RZWE217610, Mileage 75,722  
2003 Ford Crown Vic, Vin # 2FAFP71W93X112583, Mileage 44,135  
1978 DN OS 12 Fire Boat, Vin # DNC34201M78B

Mayor French made a motion, seconded by Councilman Jovanovich, to adopt the following Resolution:

**WHEREAS**, the City has been provided with a list of City vehicles that the Department of Public Works has identified as being obsolete or will become obsolete during 2010; and

**WHEREAS**, the Department of Public Works has recommended that said vehicles be declared surplus; now, therefore, be it

**RESOLVED**, that said vehicles are declared surplus; and be it further

**RESOLVED**, that authorization is given to the City Comptroller to sell or dispose of said vehicles in a manner that will serve in the best interests of the City.

ROLL CALL:

AYES: Mayor French, Councilmembers Filippi, Gamache, Jovanovich,  
Keith, Parker and Sack  
NAYS: None  
ABSENT: None

The Resolution was adopted by a 7-0 vote.

15. Miscellaneous communications and reports

Councilwoman Keith said that the Traffic and Pedestrian Safety Committee (TPS) would be meeting on May 11<sup>th</sup> and it is a great place for citizens to come to present their ideas and

concerns. A subcommittee of TPS is being formed to look into creating a Biking and Pedestrian Master Plan.

Mayor French said he had attended a Council of Governments meeting with the County Board of Legislators. Many issues such as capital projects, shared services, the housing settlement, potential reassessment and flood mitigation were discussed. He believes that representatives from the Council and City staff should meet with Legislator Judy Myers to make sure our interests are aligned.

16. Old Business

Councilwoman Keith said that the City's sidewalk policy had been mentioned at the last meeting and wanted to know if the Council should explore it further and what was the best strategy for doing so. Mayor French said that the discussion could possibly begin with TPS. Councilman Filippi suggested changing the policy regarding repairing sidewalks to cover the City's costs and provide incentives for people to get the work done.

Councilwoman Parker said that she was concerned that with the number of projects being discussed the Sustainability Plan would be delayed. Ms. Keith said that the Conservation Commission/Advisory Counsel is already working on the Sustainability Plan.

Interim Corporation Counsel Wilson said that City Planner Christian Miller has sent to the City Manager a law adopted by another community that sets up an escrow fund to cover the costs of outside consultants that might be necessary to review a project before one of the City's Boards and Commissions. The costs would be born by the applicant and would be used to pay for consultants retained by the City.

Councilman Sack noted that the Oakland Beach Avenue project is visibly underway and asked that a link to the project be put on the City website.

Councilman Filippi inquired about the fines for dumping sewage into Long Island Sound if the Hewlett Avenue Pump station was bypassed. Ms. Wilson said that there are different levels of fines, but the State fines are \$37,000 per day, per violation. City Manager Culross added that the City Engineer could also be fined. Mr. Filippi suggested revisiting the fines for illegal connections. Assistant City Manager Pickup said that the Phase II Stormwater Report would be presented by a consultant in May that would present recommendations in this area.

Mayor French said that City Planner Miller is working on the City's comments for submission in connection with the proposed Starwood. He also said that he would be meeting with the Rye Seniors on May 5th in follow up to a parking issue at Midland School raised at the Joint Meeting with the School Board.

17. New Business

Mayor French made a motion, seconded by Councilwoman Parker and unanimously carried, to appoint Caroline Mosher to the Board of Assessment Review for a five-year term expiring on September 30, 2014.

Councilman Filippi asked that the proposals for water runoff regulations as well as steep slopes be brought back to the Council for discussion.

18. Adjournment

There being no further business to discuss, Councilman Sack made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the meeting at 10:45 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk

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The next regular meeting of the City Council will be held on Wednesday, May 5, 2010 at the **Square House**.