

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on June 9, 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 7:30 p.m. Councilwoman Gamache immediately made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn into Executive Session to discuss labor relations. Councilman Jovanovich arrived at 7:35 p.m.; Councilwoman Keith arrived at 7:40 p.m. and Councilwoman Parker arrived at 7:50 p.m. Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn the Executive Session at 8:07 p.m. No decisions were made. The regular meeting convened at 8:13 p.m.

1. Pledge of Allegiance

Mayor French called the meeting to order and invited the Council to join in the Pledge of Allegiance, which was led by Alexander Reifsnyder.

2. Roll Call

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

3. Resolution appointing a City Manager effective July 1, 2010, establishing the terms and conditions of employment, and authorizing the Mayor to sign an employment agreement  
Roll Call.

Mayor French said it was a very important night for the City. Three months ago the process of finding a new City Manager was begun, utilizing the guidance and experience of City Manager Frank Culross. Over 60 applications were received with the Council interviewing the top six finalists. The Mayor said that at the end of the process he is pleased to announce that the City Council would be voting to name Assistant City Manager Scott Pickup as the City Manager. Mayor French said that Scott has credibility in the community; respect of the staff; endorsement

from other elected officials across the state as well as his peers; and the knowledge, expertise and point of view to make the tough decisions.

Council comment included:

- Scott has proven that he has an appreciation for the issues that affect Rye and hopefully he will serve in the role for many years.
- It was an interesting an enlightening process and is one of the most important decisions a City Council can make.
- The City will be in excellent hands with Scott.
- Scott is very respected in the community and will be a great addition as City Manager.
- Scott has the skill set that Rye needs.
- Scott has shown his true community spirit by taking less compensation in these times because he believes it is in the best interests of the City.
- It is the responsibility of the Council to choose the person who is the best fit for the community. Scott has all the qualifications the City needs and will lead the City admirably.

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

**WHEREAS**, the City Council of the City of Rye (the “City”) has conducted a thorough search of candidates to fill the position of City Manager; and

**WHEREAS**, the City has reviewed numerous resumes, conducted several interviews and discussed what is in the City’s best interests; and

**WHEREAS**, the City desires to employ Scott D. Pickup as the City Manager of the City of Rye effective July 1, 2010;

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor is hereby authorized to finalize an employment agreement with Scott D. Pickup as City Manager which includes the following provisions:

1. The employment agreement term has an effective date of July 1, 2010.
2. The annual base salary for City Manager will be One Hundred Seventy-Seven Thousand Five Hundred Dollars (\$177,500).
3. The Mayor and City Council shall meet with the City Manager semi-annually to review and evaluate his performance.
4. The City Manager shall report annually his used vacation, sick time, and other paid time off to the appropriate City department.
5. The City Manager shall continue to use his City automobile for City business and other local use.
6. The City Manager shall participate in the New York Public Employees Retirement System, subject to the rules and regulations of that plan. In

addition, the City Manager will qualify for full individual health benefits as part of his retirement once he has been an employee a minimum of 20 years with the City and he is at least 55 years of age. The City Manager can pay the difference in the annual premium in order to be covered by the family plan at that time.

7. The City shall reimburse or otherwise be responsible for monthly charges and expenses of a mobile device for the City Manager.
8. In the event that the City Manager is terminated pursuant to the City Charter, the City agrees to pay the City Manager his compensation as severance pay of three (3) months.

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.

4. General Announcements

Mayor French made the following announcements:

- He thanked the September 11<sup>th</sup> Memorial Committee for donating to the City the Gazebo on the Village Green that memorializes the 15 Rye residents that were killed on September 11, 2001.
- There will be a special City Council meeting on June 14<sup>th</sup> to look at the 2011 City budget and hear staff recommendations. An additional meeting will be held on June 28<sup>th</sup> where the Finance Committee will be asked to comment on the recommendations and the Council can provide direction to staff.

Additional announcements were made regarding events sponsored by various organizations that have taken place or will take place in the community.

5. Recognition of Safe Routes to School Award Winners

Prior to the presentation of the award winners, Kate Emanuel and Georgetta Morque gave an update on the Safe Routes to School Committee. The Rye Safe Routes to School Committee is made up of delegates from all of the schools and community leaders. It is part of a national initiative that focuses on the five “E’s” (education, encouragement, engineering, enforcement and evaluation). The Committee received funding from the Board of Education that will allow them to kick off several education initiatives in the Fall, including: cross-walk decals for cars, safety pledge contracts; posters and promotional materials; and Triple A assemblies at the schools. They are also exploring a special Middle School curriculum geared toward sixth

graders. They have recently run public service announcements in the Rye Record regarding distracted driving and walking and the next ads will focus on biking safety and cross-walk use. A safe routes video contest was held for Middle School and High School students with the theme of emphasizing safe walking and biking to school. Prizes were presented by Ms. Emanuel and Ms. Morque to the first place winners from both schools, Alexander Reifsnnyder for the Middle School and Christopher Reifsnnyder for the High School. Mayor French presented them with proclamations on behalf of the City.

6. Draft unapproved minutes of the City Council Workshop and the regular meeting of the City Council held May 19, 2010

Councilwoman Keith made a motion, seconded by Councilwoman Parker and unanimously carried, to approve the minutes of the City Council Workshop held on May 19, 2010 and the regular meeting of the City Council held on May 19, 2010, as amended.

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

*Sis D'Angelo, 110 Wappanocca Avenue*, discussed several matters: (1) she was insulted by the members of the Traffic and Pedestrian Safety Committee when she attended their recent meeting; does not believe she should have been treated in that manner and expects to receive an apology from the Committee; (2) the Council was elected because they said they were going to make changes – nothing has been done and everything is postponed; and (3) she presented the Council with an article in the paper saying that land on Theodore Fremd Avenue has not been cleaned up and is still toxic and suggested it be forwarded to the Planning Commission. Mayor French offered to sit down with Ms. D'Angelo and discuss her issues. Councilman Sack said that everyone deserved to be treated with civility at meetings.

*Doug Carey, 131 Purchase Street*, came to announce that on June 26<sup>th</sup> there will be additional events held in Rye Town Park in celebration of Rye's 350<sup>th</sup> Anniversary; and on June 29 and 30<sup>th</sup> at Crawford Park there will be two performances of "Flashback" an original musical recounting the history of Rye Town. Mr. Carey also reported that he had attended a hearing in White Plains of the Westchester County Rent Guidelines Board. It provides an opportunity for residents and landlords in ETPA communities to discuss possible rent increases for the upcoming year.

*Jim Amico, 350 Midland Avenue*, also discussed several matters: (1) the Police Department is doing a great job of enforcement on Midland Avenue and speeding is way down, as is the volume of traffic on the road. He expressed concern that if the numbers in the Police Department drop, their ability to enforce will be reduced. (2) The Recreation Department does a good job picking up litter on the fields on Midland Avenue; but it should be done quicker and the fence should be completed because it is ugly and leads to vandalism. (3) There should be laws that require flagmen to control traffic or that work cannot be done during school hours in a school zone. Councilman Filippi suggested looking into a sidewalk policy that would not allow work to be done on main routes used by children going to school while school is in session.

8. Mayor's Management Report

●Litigation Update

Interim Corporation Counsel Kristen Wilson reported on the following matters:

- A revised law on solicitation will be presented to the Council for consideration at the next meeting.
- There are proposals relative to the requirement that architects serving on the Board of Architectural Review be City of Rye residents, which often causes a conflict for architects who live and work in the City. One would allow architects who live within the County, not just the City, to serve on the Board. This will also be presented to the Council at the next meeting.
- Discovery has been completed in the R.B. Conway breach of contract suit pending in Supreme Court, Westchester County. The City has five weeks left to file motions for summary judgment.
- The City was served with a new Article 78 petition by Heal the Harbor.com and Ray Tartaglione against the City and Common Council and other defendants.
- The Osborn case is fully submitted and pending before the Appellate Division, Second Department. It is hoped a decision will be rendered by the end of this term.
- The Town of Harrison has submitted comments in connection with the Beaver Swamp Brook matter that is pending before an Administrative Law Judge in Region 3 of the Department of Environmental Conservation. The City is reviewing the comments. Representatives of the City will attend a meeting with Town of Harrison officials to review their plan.

Mayor French noted that it is the fiduciary responsibility of the City to properly defend the City when it is sued. He added that over the next few weeks the Council will circulate a Request for Proposal (RFP) for legal services.

9. Discussion of request by the Recreation Commission to name a baseball field at Disbrow Park, "Founders Field", in honor of the Rye Little League founders

Bart DiNardo, Chair of the Recreation Commission said that former City Councilman Mack Cunningham brought to the Commission the idea of naming the new fields at Disbrow Park "Founders Field" in honor of the founders of the Rye Little League. He said the Recreation Commission believes it is appropriate and hope that the Council will vote in favor of it. Former Councilman Cunningham provided a brief history of the founding of Little League in Rye. He said naming the field "Founders Field" will recognize the work they did, which now benefits over 450 children. A plaque with the founders names should be in place by opening day next year.

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

**RESOLVED**, that the new fields at  
Disbrow Park are hereby named "Founders

Field” in honor of the founders of the Rye Little League.

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. Continuation of Public Hearing to change the City of Rye Zoning Code to include “child-care facilities” as a use in the B-1 District

Linda Whitehead, Esq., attorney for the party petitioning for a change in the Zoning Code, said she believed the public hearing had been kept open for a Council discussion. She said she had submitted a letter regarding the different criteria that the Council wanted to review. The number of children put into the text was done because it exists in the current Zoning Code for nursery schools, which are permitted in residential zones only. There are no restrictions in the B-4 and B-5 zones other than restrictions imposed by state law. The parking requirements suggested were reviewed by the Planning Commission and came from existing codes in the area and information received from other centers. The minimum lot area was suggested because it was a minimum area that their client felt would work for a 30 child facility. It is less than the FAR permitted for residential uses in B-1 zones.

Public comment:

*Curtis Spacavento, owner of building at 176 Theodore Fremd Avenue*, said he did not believe that the site on Theodore Fremd Avenue proposed by the applicant for a child-care center is safe. Mayor French said the discussion before the Council was child-care in B-1 zones, not a particular application or site.

Council comment included:

- The Planning Commission endorsed the idea of the zoning change because the City Code is out of sync with today’s reality.
- If the need for child care in Rye is addressed it should be looked at from a Master Plan approach.
- 10,000 square feet is not enough room for 30 children. There are probably other opportunities within the B-1 for bigger facilities.
- The Council needs to look at all aspects of the child care needs of the community, possibly through a workshop.
- A workshop might afford the opportunity to discuss the opportunities for child care in the City as long as it is used to accomplish something.
- Other communities ask for larger lot sizes for child care centers.

Mayor French suggested that a workshop be held on the issue at the July 26<sup>th</sup> meeting.

Councilwoman Gamache made a motion, seconded by Councilman Filippi and unanimously carried, to close the public hearing. No vote was taken.

11. Discussion of 151 Purchase Street Associates, LLC and tenancy lease terms

Mayor French said that since the matter was under litigation, if the Council decided to move forward, there is little that can be said until an agreement is signed. Interim Corporation Counsel Wilson said that originally Highland Hall Apartments commenced a hybrid proceeding against the City Council, which was dismissed from the bench by Judge Ballantoni. It was appealed to the Appellate Division, Second Department, who sent it back to the trial court level. 151 Purchase Street Associates filed an amended complaint against the City, which the City has not answered. Settlement discussions were begun several months ago. A proposed settlement is before the Council for consideration that includes a Memorandum of Understanding (MOU) that would be made part of the settlement. The proposed resolution would authorize her to make the final changes, if any, and the City Manager would sign it.

Council questions

- Does the proposed settlement protect the tenants in the 151 Purchase Street building against sudden rent increases? (The MOU is similar to one in existence for other buildings in the community. It protects the tenants until January 31, 2011 at their existing rents or, until their current lease term ceases.)
- If the lawsuit continues is it possible that ETPA coverage could be lost for both buildings? (Yes. The settlement as proposed best protects the tenants of 151 and 131 Purchase Street.)

Public comment:

*John Carey, 860 Forest Avenue*, said he has no idea about the merits of the proposed settlement and believes the public needs to know more about it before it is acted on. He suggested that this would have been a suitable project for review by the proposed Litigation Committee.

In response to a question from Mayor French, Ms. Wilson advised that the settlement proposal should not be shared with the public during negotiations. She added that if the City decides to enter into the settlement and MOU it does not prevent the three tenants who still live at 151 Purchase Street and are named in the lawsuit from continuing with the suit.

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

**RESOLVED**, that the Interim Corporation Counsel is authorized to

finalize changes and the City Manager is authorized to sign the Stipulation of Settlement and Memorandum of Understanding between 151 Purchase Street Associates, LLC and the City of Rye.

ROLL CALL:

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

The Resolution was adopted by a 5-2 vote.

After the vote was taken, *Doug Carey, representing the Highland Hall Tenants' Organization*, said he was disappointed that there wasn't further discussion about ramifications. He said the City is losing affordable housing units and this may cause additional loses. Additionally, he said he believed that there were shared services that residents of 131 Purchase Street pay for that might be in jeopardy. Ms. Wilson said that the rights of the tenants of 131 Purchase Street will remain unchanged.

12. One appointment to the Governmental Policy and Research Committee for a one-year term by the Mayor with Council approval

Councilwoman Keith made a motion, seconded by Councilman Filippi and unanimously adopted to appoint Taegan Goddard to the Governmental Policy and Research Committee for a one-year term expiring on January 1, 2011.

13. Designation of the Chair of the Governmental Policy and Research Committee by the Mayor

Mayor French designated Susan Jansen as the Chair of the Governmental Policy and Research Committee for a one-year term.

13A. Consideration of FOIL appeal filed by Mr. Chittenden on May 27, 2010

Interim Corporation Counsel Kristen Wilson said that a Freedom of Information Law (F.O.I.L.) request had been filed with the Police Department by Mr. Chittenden and he is challenging the timeliness of the City's response.

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

**RESOLVED**, that the May 27, 2010 Appeal filed by Timothy Chittenden in connection with his April 22, 2010 Freedom

of Information Law (F.O.I.L.) request is hereby denied.

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.

14. Miscellaneous communications and reports

Councilwoman Keith reported on the following items: (1) A few weeks ago a draft of the Sustainability Plan that a subcommittee of the Conservation Commission/Advisory Council has been working on was provided to the Council for review. She asked the other members of the Council to provide any comments they might have because she would like to have a discussion of the draft at a Council Workshop. (2) The Pedestrian Safety Master Plan Committee has been meeting. She believes it makes sense to have the Committee become a more formal committee similar to the Traffic and Trailways Committee in 2007. The end goal would be to see how their plan would fit with the Capital Improvement Plan. (3) The Not-for-Profit Council will be meeting on June 15<sup>th</sup> at the Rye Free Meeting Room from 8:30 to 10:00. Mayor French said that if Council Members were available to attend it could serve as a Town Hall Meeting.

Councilwoman Parker asked if the City Manager could provide the Council with a report from Rye Town Park on the staffing of security shifts at the park during May.

15. Old Business

Councilman Sack said that coyotes have become a serious issue and suggested that the City look into trying to capture them and determine what our options are to deal with the situation. Councilman Filippi said he would look into the invasive species environmental issue that included deer as well as coyotes by contacting Westchester County and Cornell Cooperative for suggestions of what might be done in Rye. Councilman Jovanovich advised the public to keep the issue in proportion and that although there may be things the City can do, it was a fool's errand to believe that coyotes can be eradicated in Rye.

Interim Corporation Counsel Wilson said that a proposed Escrow local law will be circulated to the Council for consideration. The proposal is to assign the costs of any experts utilized by a City Board or Commission in the review of an application before them to the applicant.

Mayor French asked for an update on the Kirby Lane Sewer. City Manager Culross said that the City is getting proposals from engineering firms. The next step would be to do a more detailed design and estimate. A meeting would then be held with the neighbors and they would

be offered the opportunity to advance the money for the preliminary engineering if they do not want to commit to the project at this point.

16. New Business

Councilwoman Parker said that a Playland Strategic Planning Committee was being formed that will include herself, Mayor French, Councilman Jovanovich, Charles Dorn and Doug McKean. Councilman Sack said he was concerned that the County's long-term plans for Playland might include catering facilities, which would be open later in the evening.

17. Adjournment

There being no further business to discuss, Councilman Sack made a motion, seconded by Councilman Jovanovich and unanimously carried, to adjourn the meeting at 10:15 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk