

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on September 15, 2010 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
RICHARD FILIPPI  
PAULA J. GAMACHE  
PETER JOVANOVIĆH  
SUZANNA KEITH  
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.

3. General Announcements

- Mayor French announced that there would be a public workshop on September 27<sup>th</sup> and one of the items to be discussed will be the 2011 budget. There will be another workshop on the budget in October and possibly a Town Hall meeting at The Osborn prior to the traditional budget workshops in November.
- The City Clerk provided a brief report on the use of the new voting machines during the Primary Election.
- The Government Policy and Research Committee has settled on two topics of research: (1) the proposed law regarding a Flood Control District for Westchester County, and (2) the gross receipts tax.

Announcements were also made regarding events, activities and programs being held in and around the City by various organizations.

4. Presentation by Mayor and Police Commissioner of Certificates of Recognition to members of the Police Department for exceptional performance during calendar years 2007, 2008, and 2009

Police Commissioner William Connors began his presentation by acknowledging the Chiefs of the Port Chester and Harrison Police Departments who were in attendance and noted that Rye's close relationships with other local departments is critical to its success. Commissioner Connors said that the challenge in awarding recognition is to decide what deserves notice because there is so much consistent good work being done by Rye's police officers on a daily basis. The Commissioner then read the Citations and Mayor French and City Manager Pickup presented the awards to the police officers who were in attendance including Rye Police Officer Michael Olson and Harrison Police Officer Ed Detlefs. Port Chester Police Chief Joseph Krzeminski accepted Citations on behalf of Port Chester Police Officers Drew Conetta and Aaron Conetta. Citations were also issued to the following Rye Police Officers not in attendance: Officers Edward Balls, Christine Incalcaterra, Michael Anfuso, Angelina Cyr, Michael Kenny, Amy Spillane, Joseph Cancel, Daniel Camacho, Mauricio Gomez, Julio Rossi, Michael Anderson and John Hannah and Sergeants Susan Rigano, Scott Craig and Michael Larkin. Mayor French offered congratulations to all the award winners and noted the professional manner and performance of all officers in times of need.

5. Resolution to accept a donation from the Twig of Westchester of an Automated External Defibrillator to Rye Recreation

Scott Moore of the Port Chester-Rye-Rye Brook EMS said that in April, the Twig Organization opened up a grant period and, among other things, decided to donate Automated External Defibrillators (AED's) to the local Senior Centers. Maureen Gomez and GiGi Dorison, co-presidents of the Twig Organization and Recreation Superintendent Sally Rogol were also in attendance.

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

**RESOLVED** that the City Manager is hereby authorized to accept the donation of an Automated External Defibrillator to the Rye Recreation Senior Center from the Twig of Westchester.

ROLL CALL:

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

6. Draft unapproved minutes of the special meeting of the City Council held August 9, 2010 and the regular meeting of the City Council held August 11, 2010

Councilwoman Keith made a motion, seconded by Councilwoman Parker and unanimously carried, to approve the minutes of the special meeting of the City Council held on August 9, 2010.

Councilwoman Keith made a motion, seconded by Councilwoman Parker and unanimously carried, to approve the minutes of the regular meeting of the City Council held on August 11, 2010.

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

*Andy Torrogrossa, 1 Orchard Lane*, spoke about his request to have the Council consider amending the section of the Fence Ordinance regarding replacement of sections of an existing fence that are taller than what is currently allowed. The Council indicated they would review the request with staff.

8. Mayor's Management Report

- Coyote Overview

City Manager Pickup reported that he has met with representatives of neighboring communities who have also had coyote issues. The communities are all interested in ongoing Coyote Management Programs. The City is working with Congresswoman Nita Lowey's office on a federal appropriations request. The City is awaiting direct guidelines from the Federal Government regarding a program design. Coyote activity in Rye seems to be quiet with reported sightings down. The City has been working closely with the schools on awareness and response issues. Mr. Pickup added that none of the coyotes captured in Rye have tested positive for mange or rabies.

- Flood Mitigation Update

City Manager Pickup said that on September 29<sup>th</sup> there will be a meeting with the City, Rye Brook, Harrison, Westchester County and the Army Corps of Engineers. In late 2008 or early 2009, the Army Corps came out with a feasibility analysis and series of recommendations. The idea is to share the document with those who could be impacted by it including people at the SUNY Purchase campus and at Westchester County and begin a dialogue about implementing some of the Army Corps' recommendations in order to look for an upstream solution for regional detention. In connection with the Sluice Gate project, Mr. Pickup reported that the \$400,000 grant from New York State still needs a legislative review and the City has been told that it will be another four to six months before the money will be disbursed. This would delay the project. Mr. Pickup has reached out to Assemblyman Latimer to see if anything can be done. The City has met with Harrison and it does not appear that they will require formal Planning Board approval. Additional information has also been submitted to Rye Brook and it has yet to be determined if they will want the City to go through a formal approval process. He said that he and City Comptroller Gribbins had discussed the possibility of a Revenue Anticipation Note for this project, but until there is an award letter there is a risk of not getting the award. The Federal Upper Pond project has been fully submitted and the City is awaiting State confirmation. The project has been fully vetted and the City has met all requirements.

- Sonn Drive and other traffic improvements

Mr. Pickup said that the weekend before schools opened, the controller box for the traffic signal at Oakland Beach Avenue and Boston Post Road broke and the entire electronics of the signal had to be replaced. This complicated the sequencing of the light, which has since been fixed and the traffic patterns seem to be back to normal. An additional speed survey will be done to determine average speeds. So far, feedback has been positive. The final pieces of the stimulus projects should be completed this week.

- Legal Update

Interim Corporation Counsel Kristen Wilson reported on the following matters:

Beaver Swamp Brook - The City has received notice from the Administrative Law Judge (ALJ) that he would like to schedule a conference call on September 27, 2010 that will be open to any entity that has received party status through this proceeding. Ms. Wilson anticipates that the ALJ will outline what the issues are and put together a scheduling order for parties to respond to the issues.

Molloy v. Planning Commission – The City received a decision upholding the decision of the Planning Commission to deny an application of a Hen Island resident for a sea wall. As part of the decision the Judge also denied the motion from Ray Tartaglione to intervene in the proceeding.

9. Presentation on the Rye Meeting House

Anne Stillman, President of the Committee to Save the Bird Homestead (the Committee), outlined a proposal from the Committee, which is a not-for-profit organization, to take responsibility for the Rye Meeting House located next door to the Bird Homestead. One of the Committee's donors has offered to make a \$50,000 donation to the Committee to be used to match the City's Save America's Treasures Grant of approximately \$50,000 for the purpose of rehabilitating the Meeting House for use as program space for the Committee. The proposal does not require any money from the City, or any resources from Habitat from Humanity. They believe it is a natural fit because the properties are adjacent and have historical links to one another and the restrictive covenants in the deed coincide with the goals of the Committee. Additionally, Board members of the Committee possess the expertise to undertake the rehabilitation and operation of the building. The Committee proposes to enter into a Management Agreement for the Meeting House for the City that would be similar to the one for the Bird Homestead. The Committee would pay for the liability and property insurance, rehabilitation of the building and ongoing operating and maintenance costs. They have worked with a structural engineer, specializing in preservation to develop a scope of work to bring the building to usable condition in accordance with the Secretary of Interior's standards. Ms. Stillman has spoken to the National Parks Service, who administers the grant that is set to expire on April 30, 2011, and they are agreeable to this approach. There would be a review process by both the State Historic Preservation Office and National Parks Service and, therefore, the Committee hopes to begin work as soon as possible.

Council questions and comments:

- Has the Committee consulted with Lisa Easton on the work she has been doing in connection with the Meeting House? (Her plans are different from the Committee's proposal.)
- The Committee may be biting off more than it can chew, since there is money still outstanding on the purchase of the Bird Homestead. Perhaps the donor's money should be applied toward that.
- The Council should be deliberative regarding the proposal, but the grant money should not be lost.
- The Council should hear from the other community groups who have presented proposals for the Meeting House again before making a decision.
- This proposal would also involve time and effort from City staff.
- Government needs to get out of the way. It might be a good opportunity to get the building back in use.

Jack Zahringer, Chair of the Landmarks Advisory Committee, indicated that the Landmarks Committee likes the idea and approves of it as long as they have the money to do the job. Margo Burgheimer, a member of the Committee urged the Council to think positively.

10. Continuation of Public Hearing to amend local law, Chapter 144, Peddling and Soliciting, of the Rye City Code, to revise the law on solicitation

The public hearing remained open from the last meeting. Interim Corporation Counsel Wilson summarized the proposed changes to Chapter 144, which include: (1) changing the hours of solicitation to 9:00 a.m. to 8:00 p.m.; (2) a "No Knock Registry" which will allow residents to sign up for a list similar to a "Do Not Call" list; and (3) commercial solicitors going door to door will be required to have a criminal background check.

Members of the public wishing to comment included *Robert Hoch, Director of Government Affairs for Cablevision*, who addressed the proposed change requiring criminal background checks for commercial solicitors. He said that Cablevision already does background checks on its employees who have contact with the public at their homes and that they are concerned about redundancy and cost issues in connection with the new requirement proposed by the City. He asked if the Council would consider allowing an exemption or expedited process for companies that already have a policy of performing a criminal background check on their employees. Interim Corporation Counsel Wilson said that the concern is that the background checks would be current and said she would discuss Mr. Hoch's question with Police Commissioner Connors to determine what background information is pertinent to the City's needs.

Council comments and questions included:

- If a company bonds its employees that could cover the background check requirement because the employees would have to be fingerprinted to be bonded.
- Who is required to do the background check under the proposed law? (As part of the application process, the applicant must go through a New York State service and then submit the results to the Police Department for review.)

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried to close the public hearing. Councilman Filippi made a motion, seconded by Councilwoman Keith, to adopt the following local law:

**CITY OF RYE  
LOCAL LAW NO. 6 of 2010**

**A local law to amend Chapter 144, Peddling and Soliciting  
of City Code of the City of Rye as follows:**

**Chapter 144 Peddling and Soliciting**

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

**Section 1.**

**§144-1 Definitions**

**CHARITABLE** means the purpose of an organization which has received a letter of determination approving tax exempt status under Title 26 of the United States Code Section 501(c) (3) or the purpose of a school club, recognized and affiliated with a public or private school, having a program with annual campaigns to support the public or private school club.

**COMMERCIAL** means the purpose of solicitation which is not noncommercial, as defined in this Section.

**CORPORATION** shall take on the meaning consistent with the New York State Business Corporations Law and the New York State Not for Profit Business Law.

**ESTABLISHED PLACE OF BUSINESS** means a building or store in which or where the person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits for during regular business hours.

**HAWKER AND PEDDLER** means any person, either principal or agent, who, from any boat or in any public street or public place or by going from house to house or place of business to place of business, on foot or on or from any animal or vehicle, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except milk, newspapers, periodicals, books and pamphlets.

**NONCOMMERCIAL** means the purpose of solicitation which is charitable, as defined in this Section, religious or political.

**PERSON** means any individual, firm, partnership, joint venture, association, social club, league, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee,

syndicate or any other group acting as a unit. The word “person” shall include the definition of corporation.

**SOLICITOR** means any person whether a resident of the City or not, engaged in solicitation.

**SOLICITATION** includes the act of any person, whether a resident of the City or not, traveling by foot, vehicle or any other type of conveyance who goes from house to house, business to business, from place to place or in or along any highway, street or sidewalk within the City either;

1. requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value;
2. taking or attempting to take orders for the sale of any goods, wares, merchandise or services of any kind, or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets; and
3. selling and making immediate delivery of any goods, wares, merchandise or services of any kind or description, commonly referred to as “peddling.”

Solicitation shall not include the following so long as the person is not requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value:

- a. A person communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious or charitable nature;
- b. A person seeking to influence the personal belief of the occupant of any residence or business in regard to any political or religious matter;
- c. A person seeking to obtain, from an occupant of any residence or business, an indication of the occupant’s belief in regard to any political or religious matter,
- d. A person conducting a poll, survey or petition drive in regard to any political matter; and
- e. A person carrying, conveying, delivering or transporting dairy products, newspapers, or other goods to regular customers on established routes or to the premises of any person who had previously ordered such products, goods or services and is entitled to receive the same.

**§144-2 Exemptions**

Nothing contained in this chapter shall be deemed to apply to any of the following:

- A. A sale conducted pursuant to an order of any court.
- B. A wholesaler selling articles to dealers or merchants who have an established place of business in the City of Rye.
- C. A child 18 years of age or under who resides within the City or Rye and who solicits or peddles on behalf of a charitable, religious, athletic, social, educational or civic organization, including but not limited to the Boy Scouts, Girl Scouts, Cub Scouts,

- Brownie Scouts, clubs, classes or organizations sponsored by any school located within the City of Rye of which such child is a member.
- D. The peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities on their own land, provided that they have otherwise complied with all applicable licensing and health and safety requirements of any other competent governmental body or agency, as well as the Zoning Code of the City, and the sale takes place from a stationery location upon property owned or leased by the seller of such goods.
  - E. A not-for-profit organization's sale of food ancillary to a fundraising event, such as a picnic or carnival, that lasts no longer than five consecutive days. This exemption shall not apply to any door-to-door peddling or soliciting.
  - F. Any person holding a license pursuant to Section 32 of the General Business Law "Licenses to veterans of the Armed Forces of the United States."

**§144-3 License Required**

It shall be unlawful for any person to act as a hawker, peddler or solicitor, as herein defined, without first having obtained a license from the Clerk. The license shall be carried on the person of the licensee at all times while engaging in peddling or soliciting and shall be exhibited by the licensee to any person on demand. A picture of the licensee shall appear on the valid license.

**§144-4 Certificate as to equipment**

The application for a license shall be accompanied by a certificate from the Sealer of Weights and Measures of the County of Westchester, certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.

**§144-5 License Application**

To obtain a license to solicit, peddle or hawk within the City of Rye, a person shall make a written application to the Clerk in a form prescribed by the Clerk and provide the following information:

- A. The full name of the applicant, including any nicknames commonly used, home address, telephone number, any mobile telephone number or email address used on a regular basis, date of birth and social security number.
- B. A valid driver's license with a clearly delineated license number and state of issuance or other acceptable proof of identification;
- C. If the applicant works for another person or entity of any nature, the name, address, telephone number, email address, and website address, of the person or entity to the extent such exists;
- D. A brief description of the solicitation business to be conducted, and the intended area where the business is to be conducted if less than the entire residential area of the City;
- E. Two photographs, two inches by two inches in size, full face on a white background, taken of the applicant within the prior sixty (60) day period of time which accurately reflect the appearance of the applicant on the date of the application;



- F. An affidavit that the applicant is not disqualified because of prior criminal history and whether the applicant has ever been convicted of a crime and, if so, under what name, with a listing of such conviction, including crime jurisdiction, date and sentence imposed.
- G. If the solicitor is a minor (under the age of 16), a notarized authorization by the applicant's parent or legal guardian. The authorization form is part of the application form.
- H. A description of the vehicle which the applicant wishes to use in carrying out his business or occupation as well as the name of the vehicle owner and registration details.
- I. County Health Department permit number, if a food vendor.
- J. If peddling or soliciting for a corporation, the state in which it is incorporated and the names of its officers along with a copy of its certificate of incorporation.

**§144-5.1 Criminal Background Check**

This section shall only apply to commercial solicitation.

- 1. The City of Rye shall initiate a criminal history background check of prospective solicitors, including those persons acting on behalf of an employer or other person.
- 2. The criminal background check shall not be initiated without the written consent of the person.
- 3. A license shall not be issued to any person who refuses to consent to or cooperate in the securing of a criminal history record background check.
- 4. Each applicant shall submit two sets of fingerprints and any other necessary information to L-1 Identity Solutions (or other outsourcing agency under contract with the New York State Division of Criminal Justice Services (DCJS)) for processing. In addition, a certified check or money order, in the amount specified by and made payable to DCJS to cover the cost of processing fingerprints, shall accompany the application.
- 5. The City of Rye Police Commissioner and/or his designee shall be responsible for reviewing the criminal history record information (CHRI) disseminated by DCJS. All applicants requiring a background check must have the results of their background check reviewed by the Police Commissioner and/or his designee prior to submitting their application to the City Clerk.
- 6. If a prospective applicant has been convicted of a specified criminal activity, any decision regarding such prospective applicant's fitness for a license must be made upon consideration of new York State Correction Law §§701-703-b and §§751-753.

**§144-5.2 Expiration – Renewal – Revocation – Denial - Appeal**

The following provisions shall apply to licenses for commercial solicitation:

- 1. All licenses granted under the provisions of this Chapter shall be reviewed annually and may be renewed thereafter, unless sooner revoked.
- 2. Prior to the expiration of a license and upon application for renewal of the license, the Clerk shall determine if the applicant, peddler or solicitor has acted in

- compliance with the applicable provisions of this Chapter and conditions of the license.
3. The license may be renewed upon a determination that the solicitor or peddler has substantially complied with the terms and conditions of the permit and the requirements of this Chapter.
  4. Renewal fees shall be established by a resolution of the City Council and may be amended from time to time.
  5. If it is determined that the solicitor or peddler has not been in compliance with any of the provisions of this Chapter the license shall not be renewed.
  6. The Clerk may revoke any license granted under the provisions of this Chapter for any of the following reasons:
    - a. The applicant provided false, misleading or misrepresented information in procuring the license;
    - b. The applicant or any person who worked on behalf of or with the applicant failed to comply with the requirements of this Chapter;
    - c. The applicant or any person working on behalf of or worked on behalf of or with the applicant is convicted of violating any federal, state or local law while in the course of operating under the license;
    - d. The activities for which the license was granted were or are being conducted in a manner that is detrimental to the public health, safety, peace or welfare.
  7. When a license has been revoked, no other license shall be issued under the provisions of this Chapter to the same applicant within one (1) year of the date of revocation.
  8. An application for a license under this Chapter may be denied for the following reasons:
    - a. The applicant fails to cooperate or consent to the criminal background check as stated in this Chapter.
    - b. An applicant's background check reveals a conviction for any criminal offense including but not limited to, violent crimes, sexual assault, and possession of a controlled substance, theft, fraud or burglary.
    - c. Fraud, misrepresentation or false statement in the application for the license.
    - d. Fraud, misrepresentation or false statement made in the course of carrying out the applicant's trade, business or occupation.
    - e. Any violation of this chapter.
    - f. Carrying out of the licensed business, trade or occupation in an unlawful manner or in such a way as to breach the peace or to constitute a menace to the health, welfare or safety of the public.
    - g. The license shall not be transferable or assignable. In the event that a licensee shall permit any other person to possess or use such license, such license shall automatically be revoked, and the licensee shall thereby be guilty of violating this Chapter, and no application for a further license may be made for a period of one year from the date of revocation.
    - h. Any applicant who has had a license denied or revoked by the Clerk may appeal to the City Manager, in writing, within 30 days of the receipt of the denial or revocation. The City Manager will thereafter hold a hearing

within 45 days of receipt of the demand for such hearing to review the determination of the Clerk.

**§ 144-6 License Fee**

The annual license fees shall be set annually by resolution of the City Council before adoption of the budget for the following year for each license issued pursuant to this Chapter.

**§144-7 Name and address on vehicle**

Every vehicle used by a licensed hawker, peddler or solicitor in or about his or her business shall have the name of the licensee and his or her address plainly, distinctly and legibly painted in letters and figures at least two inches in height in a conspicuous place on the outside of the sides of every such vehicle, and such name and address shall be kept so painted plainly and distinctly at all times while such vehicle is in use during the continuance of the license.

**§144-8 Restrictions**

A licensed hawker, peddler or solicitor shall:

- A. Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.
- B. Keep the vehicle and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.
- C. Not blow a horn, ring a bell or use any other noisy device to attract public attention to his or her wares, or shout or cry out his or her wares.
- D. Not stand nor permit the vehicle used by him or her to stand in one place in any public place or street for more than 10 minutes or in front of any premises for any time if the owner or lessee of the ground floor thereof objects.
- E. Not sell any confectionery or ice cream within 250 feet of any school property between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- F. Not permit any vehicle used by him or her to stop or remain on any crosswalk.
- G. Not create or maintain any booth or stand, or place any barrels, boxes, crates or other obstructions, upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise

**§144-8.1 Hours Restricted**

No person while conducting the activities of peddler or solicitor shall enter upon any private residence, knock on doors, or otherwise disturb persons in their residence between the hours of 8:00 p.m. and 9:00 a.m.

**§144-9 When written orders required; duplicates**

All orders taken by licensed solicitors, who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

**§144-10 “Do Not Knock” Registry**

- A. Any owner or occupant of property located in the City who wishes to prohibit soliciting on the premises shall complete a form available in the City Clerk’s office and on the City’s website. The completion of the form will allow the owner/occupant’s premises to be included on a list of properties that do not permit solicitation (herein referred to as the “Do Not Knock Registry” or “Registry”).
- B. In order to be removed from the Registry, the owner and/or occupant must complete a form indicating that he/she does not want he/her property to be included on the Registry.
- C. Any owner and/or occupant who has requested enlistment on the Do Not Knock Registry, pursuant to this chapter shall be able to purchase from the City, for a nominal fee, a sticker or sign for display indicating enlistment on the Do Not Knock Registry.
- D. All solicitors shall obtain the current Do Not Knock Registry at the time of issuance of a permit or at the time of registration to solicit pursuant to the provisions of this Chapter.
- E. Solicitors shall not solicit at any premises identified on the then current Do Not Knock Registry.
- F. It shall be the responsibility of the solicitor to check each residence for the presence of such signage and to obtain updated copies of the Registry.

**§141-11 Unwanted Solicitations Prohibited**

- A. It is unlawful for any person to go upon, ring the bell, knock on the door of or attempt to gain admission to the premises of any residence, dwelling or apartment in the City of Rye where the owner, adult occupant or other person in control thereof has expressed his objecting to such activity either by explicit instructions, oral or written, or by posting a sticker or sign indicating the location is listed on the City’s Do Not Knock Registry pursuant to Section 144-10, or by posting a sign or decal bearing the words “No Solicitation” or words of similar import such as: “No Solicitors”, “No Solicitation”, “No Soliciting”, “No Peddlers”, or “No Trespassing”, provided the signage has letters at least one (1) inch in height, and is posted conspicuously so that it can be seen by persons approaching the front entry of the residence or at the front doorway, or by persons assisting a solicitor who has such a visual impairment as to be unable to see the sign.
- B. Activities related to a service requested by the owner or occupant of the property and undertaken in the ordinary course of business, including but not limited to deliveries of utility notices, telephone directory deliveries, regular newspaper deliveries, work order

notices and service inquiries, are presumed to be requested or invited for the purpose of this Section.

- C. Nothing in this Section shall be construed to prohibit the distribution of leaflets, pamphlets or other literature such as commercial, political or religious material distributed in a lawful manner.

**§144-11.1 Penalty**

Any violation of the provisions of this Chapter shall be punishable as provided in Section 1-15 of the Code of the City of Rye and as otherwise provided herein.

**Section 2. Severability**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

**Section 3.**

This local law shall take effect on January 1, 2011.

ROLL CALL:

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

The local law was adopted by a 7-0 vote.

Agenda Items 14 and 11A were taken out of order.

11. Continuation of Public Hearing to repeal Chapter 87, Environmental Quality Review, and add new Chapter 87, Escrow Provisions, of the Rye City Code to assign the costs of any experts utilized by a City Board or Commission to the applicant

The public hearing remained open from the last meeting. Interim Corporation Counsel Wilson summarized the proposed local law as repealing the existing Chapter 87, and replacing it with a new Chapter 87 that will require applicants to incur the costs associated with any professional review that the City might need to do as part of its review of a particular application before a Board or Commission.

There being no one from the public who wished to comment on the proposed local law, Councilman Filippi made a motion, seconded by Councilwoman Parker, to close the public hearing. Councilwoman Gamache made a motion, seconded by Councilwoman Keith, to adopt the following local law:

**LOCAL LAW NO. 7 of 2010**

**A Local Law to add**  
**Chapter 87 Escrow Provisions,**  
**Of the Code of the City of Rye, New York**

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

**Section 1.** A local law deleting the existing Chapter 87 “Environmental Quality Review” and replacing it with a new Chapter 87 “Escrow Provisions” of the Code of the City of Rye as follows:

§ 87-1. Fees and consultants.

A. Upon any application to the City, the Planning Commission, the Planning Commissioner, the Board of Appeals, the Architectural Review Board, the Building Inspector, the City Engineer, or other employee or official (“boards, commissions and employees”), subject to the provisions of this Section, may require the applicant to deposit with the City, pursuant to an escrow agreement in a form that shall be approved by the Corporation Counsel, funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation in connection with the review of any application.

B. Any City boards, commissions or employees involved in the review of any application may refer such application to such engineering, planning, legal, technical or environmental consultant or other professionals, hereinafter referred to as "consultant or consultants," as they deem reasonably necessary to enable it to review such application as required by law, provided that the required expertise is not available from city staff, and subject to the following:

(1) The consultant(s) shall send to the City a detailed statement of the consulting services (“statement”) to be provided by the consultant(s) and it shall include the consultant's fees for said services with an acknowledgement by the consultant(s) that the applicant, not the City, shall be ultimately responsible to the consultant(s) for the services provided. A copy of the statement shall be sent to the applicant by the City.

(2) Upon approval by the applicant of the fees and services proposed, the applicant shall deposit a sufficient sum to cover said fees, subject to the conditions set forth in the signed escrow agreement with the City Comptroller. When said amount is diminished to 50% of the original amount, the applicant will be asked to replenish the escrow with funds sufficient to bring the account back to the level of the original amount.

Excess funds are to be returned to the applicant as soon as is practicable following the application and approval/denial process.

(3) If the applicant wishes to review the services and the costs with the City boards, commissions or employees, the request for a review shall be in writing and mailed to the City Clerk by certified mail, return receipt requested, or delivered in person, within seven days of the applicant's receipt of the service and cost statement.

(4) The boards, commissions or employees shall authorize the consultant to proceed within 7 days of receipt of the funds by the City Comptroller. All details related to the kind and manner of payment shall be in the discretion of the City Comptroller.

(5) Nothing contained herein or in the escrow agreement shall be deemed as an indication or obligation by the City to approve the application or grant its approval. The escrow arrangement shall be for the benefit of the applicant to facilitate the review process and provide the City with the necessary expertise where the City does not have such expertise. The applicant, in the escrow agreement shall hold the City of Rye and all of the relevant boards, commissions and/or employees harmless.

(6) Payment of the consultant(s)' fees shall be required in addition to any and all other fees required by this or any other section of this chapter or any other City law or regulation.

(7) No final action on an application or permit shall be taken and/or issued until all consultant's fees charged in connection with the review of the applicant's project have been paid.

**Section 2. Severability**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

**Section 3.**

This local law shall take effect immediately upon filing with the Secretary of State.

**ROLL CALL:**

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

The local law was adopted by a 7-0 vote.

11A. Consideration to set a Public Hearing to amend Local Law Chapter 191, Section 39, Parking Time Limits and fees, to remove the setting of fees from Local Law

City Comptroller Gribbins said that in order to propose an increase in meter fees, staff must be able to set the meter fees outside of local law, and, therefore, a change in the current law is required.

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

**WHEREAS**, the Council wishes to amend Chapter 191 “Vehicles and Traffic” of the Code of the City of Rye by amending Section 191-39, Parking Time Limits and fees; 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 October 6, 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 on a proposed local law to amend Chapter 191 of the Code of the City of Rye “Vehicles and Traffic” by amending Section 191-39, Parking Time Limits and fees.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 6th day of October, 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 191 Vehicle and Traffic, Section 191-39, Parking Time Limits and fees.

Copies of said local law may be obtained from the office of the City Clerk.



Dawn F. Nodarse  
City Clerk  
Dated: September 23, 2010

12. Consideration to set a Public Hearing to amend Local Law Chapter 191, Vehicles and Traffic, Section 191-47 C, D, and E, Parking application, fees and location to clarify the language regarding City municipal parking places

City Manager Pickup said that over time areas of various municipal lots have been designated for permit parking. The local law will make the designated areas clearer and will aid in enforcement.

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

**WHEREAS**, the Council wishes to amend Chapter 191 of the Code of the City of Rye “Vehicles and Traffic” Section 191-47 C, D and E, Parking application, fees and location; 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 October 6, 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 on a proposed local law to amend Chapter 191 of the Code of the City of Rye “Vehicles and Traffic” by amending Section 191-47 C, D and E, Parking application, fees and location.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 6th day of October, 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 191 Vehicles and Traffic, Section 191-47 C, D and E, Parking application fees, and location.

Copies of said local law may be obtained from the office of the City Clerk.

Dawn F. Nodarse  
City Clerk  
Dated: September 23, 2010

13. Resolution authorizing the City Manager to sign the settlement agreement, Memorandum of Understanding, between 151 Purchase Street Associates, LLC and the City of Rye Roll Call.

Interim Corporation Counsel Wilson said that at a previous meeting the City Council authorized herself and City Manager Pickup to enter into a Stipulation of Settlement with 151 Purchase Street Associates. The Stipulation was signed by both parties and submitted to the Court to be "So ordered". The Council is required by the Stipulation to adopt a Resolution removing ETPA from the building located at 151 Purchase Street going back to February 24, 2006, the date the ETPA Resolution was adopted by the Council. The rate increases for the three remaining tenants at 151 Purchase Street who were living there at the time the lawsuit was brought will be protected in that their rate increases will be the same as under ETPA up through January 31, 2011. At that time, they will have the option to move into an available apartment in 131 Purchase Street if they so choose. Mayor French added that this settlement protects ETPA for the 99 units in the building located at 131 Purchase Street. The building at 151 Purchase Street will be covered by a Memorandum of Understanding and will no longer be covered by ETPA as of February, 2011.

*Doug Carey, 131 Purchase Street*, said that the tenants at 151 Purchase Street had been given legal documents by the owners of the building at that time ETPA was adopted indicating that they owed more money than the amounts in their leases. He asked if the settlement, by returning the 151 Purchase Street building back to its pre-ETPA status, would open up a loophole for these residents to be sued for back rent. Ms. Wilson said that she knew there were some issues regarding housing rental rates that the Division of Housing and Community Renewal (DHCR) permitted and what the owners were charging the residents but that was resolved through DHCR. The City did not have any standing in that matter. Ms. Wilson said she would look into the issue raised by Doug Carey but did not know how the current owner could seek back-rent from the tenants. The Council deferred the vote on the Resolution to the September 27<sup>th</sup> special meeting.

14. Resolution authorizing the changes for commuter parking as discussed with Metro North

City Manager Pickup said this agenda item was a continuation of a dialogue started in March regarding the upcoming budget. City Comptroller Jean Gribbins said that in June, one of the options presented to the Council to offset the inherent increases in expenditures and expenses

in the 2011 budget was to double the parking permit and meter fees. The City entered into discussions with Metro North, who did not agree to the proposal to double all commuter parking fees, but did agree to an increase in the permit fee to \$720 for all commuters. A one price for all commuters will allow the City to implement an on-line renewal process. City of Rye residents will be given the first opportunity to renew from October 1<sup>st</sup> to October 31<sup>st</sup> and starting November 1<sup>st</sup> non-residents will be allowed to renew. The increased permit fees should increase revenue to the City by \$185,000 in 2011, which is approximately \$39,000 less than would have been generated by doubling commuter permit fees. David Blank, a representative of the Finance Committee, said the Committee would have proposed a larger increase in the fees if not limited by Metro North. City Manager Pickup said the City was also interested in partnering with Metro North on making physical improvements to the lot.

Council comments and questions included:

- City staff have been presenting options to the Council since June and they are necessary decisions that the Council will have to make.
- The rate increase seems large, but it has not been raised in several years. It amounts to \$3.00 per day or \$60 per month.
- The Council should periodically review the fees.
- Commuter parking rates should be closer to market rates, regardless of the economy.
- Thanks to the Finance Committee for their input on this issue.

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

WHEREAS, the City of Rye, in cooperation with the Metropolitan Transit Authority (the "MTA") periodically review the parking fees for commuter parking permits; and

WHEREAS, the City and the MTA have agreed that the commuter parking rates should be increased since there has not been any increase since 2002; and

NOW, THEREFORE, BE IT RESOLVED, that the commuter parking rates for MTA and City owned parking lots are as follows:

The rate for both a resident and non-resident permit is \$720 per permit;

Residents will have the ability to renew their permit(s) before non-residents beginning October 1, 2010;

Non-residents will have the ability to renew their permit(s) beginning November 1, 2010;

The MTA has approved the above rates to be effective for the 2011 budget.

ROLL CALL:

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

The motion was adopted by a 7-0 vote.

15. Resolution expanding the scope of responsibilities and changing the name of the Rye Cable Television Committee

Mayor French said that due to changes in technology and the way people receive information, the Rye Cable Television Committee is being renamed and its scope expanded.

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

WHEREAS, new and emerging communication technologies have opened up and will continue to open up broad opportunities available to its residents to access information; and

WHEREAS, the City of Rye has for over three decades sought to make such opportunities available to its residents through agreements with cable television providers but now needs to broaden into newer media; and

WHEREAS, the Rye Cable TV Committee needs to be expanded in the scope of its responsibilities and in the skills of its members, with adjustment to its title to reflect its broader scope; and

WHEREAS, the City has long-term franchise agreements with Cablevision Systems Corporation and Verizon New York Inc. entered into on March 28<sup>th</sup>, 2008 and December 13, 2007 respectively,

NOW THEREFORE, be it resolved that;

- 1) The existing Rye Cable TV Committee is hereby renamed as the Rye Cable and Communications Committee, consisting of nine members appointed by the Mayor and elected by the City Council to staggered three-year terms, one of them to be designated by the Mayor to chair the Committee for a period of three years.
- 2) The Committee is responsible for:
  - a. monitoring compliance by Cablevision and Verizon with their respective agreements, and bringing to the City Council's attention any compliance problems that are not settled by negotiation;

- b. establishing policy regarding all aspects of Rye’s television channels devoted to public access and to consult with the Council policies regarding the government access and educational channels;
- c. maintaining relations with Rye City School District and the Rye Neck School District concerning matters of mutual interest;
- d. advising the City Council on budget issues related to the operations of Rye’s television channels or any other media-related activities that the City may undertake;
- e. maintaining constant review of technological developments in any medium whose use for the benefit of Rye residents might be useful and feasible;
- f. formulating plans for the local application of any such development, and
- g. any and all other actions related to the foregoing that are necessary and proper for their achievement.

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.

16. Discussion of and appointments to the Pedestrian Safety & Biking Planning Committee

Mayor French said that many of the projects being done around the City came about as a result of the work of the Temporary Trailways and Traffic Safety Study Group who put together a plan of action for pedestrian and bicycle safety. The Council now wants to continue with that work by asking some old members back and including new members to focus on the next set of projects. Councilwoman Keith said that the new Shared Roadway Working Group for Pedestrian & Biking Safety would be a temporary committee with a goal of coming to the Council with recommendations prior to budget time next year. The recommendation is to appoint 14 members to the Group, with additional members from key groups in the City serving as liaisons.

Councilman Sack made a motion, seconded by Councilman Jovanovich and unanimously carried, to adopt the following Resolution:

WHEREAS, the residents of the City of Rye (the “City”) continue to need safe sidewalks, crosswalks and roadways to walk and bike throughout the City;  
and

WHEREAS, the City would like to identify new ways for Rye to be a safer walking and biking community providing a more sustainable and healthier quality of life; and

WHEREAS, it is desirable to have a temporary Shared Roadway Planning Working Group for Pedestrian and Biking Safety to study and develop a plan of shovel ready pedestrian and school safety projects for review by the City Council and the community;

NOW, THEREFORE, BE IT RESOLVED, that the City of Rye Shared Roadway Planning Working Group for Pedestrian and Biking Safety (“Working Group”) is hereby established; and be it further

RESOLVED, that the Working Group shall consist of, but not solely inclusive of, representatives of key user groups in the City (seniors, schools, recreation, neighborhoods and the YMCA); and be it further

RESOLVED, that the Working Group is temporary in nature and shall function and report to the Council independently from the Traffic and Pedestrian Safety Commission but will have a liaison from that Commission; and be it further

RESOLVED, that the members of the Working Group shall be appointed by the Mayor with approval of the City Council and that up to two members shall be designated by the Mayor as Chairpersons, and be it further

RESOLVED, that the Working Group shall have the following duties and powers:

1. Recommend and prioritize shovel ready engineering projects and related grant funding focusing on neighborhoods and school issues;
2. Evaluate and prioritize the remaining recommendations of the 2007 Temporary Trailways and Safe Schools Committee by engaging the community; and
3. Recommend education initiatives in coordination with the YMCA Safe Routes to School and Board of Education and Traffic and Pedestrian Safety Commission; and
4. Evaluate and participate in other community and governmental best practices such as “Complete Streets” initiatives in nearby towns; and
5. The Working Group shall present their initial set of recommendations to the City Council by May 2011 with a final submission prior to the August 2011 Capital Improvements budget meeting for 2012.

Councilman Sack made a motion, seconded by Councilman Jovanovich and unanimously carried, to appoint James Burke, Steve Cadenhead, Lucy Cassidy, Susan Gervais, Maureen Gomez, Greg Howells, Howard Husock, David Kimmel, Kate Madigan, Martha McDade, Meg O’Callaghan, Brigitte Tanner, Al Vitiello and Bob Zahm to the Shared Roadway Planning Working Group for Pedestrian & Biking Safety.

Mayor French appointed Steve Cadenhead and Maureen Gomez to serve as Chairs.

17. Bid Award for Police Uniforms (Bid# 4-10)

This item was withdrawn from the agenda.

18. Two appointments to the Boat Basin Commission, by the Council, for two-year terms expiring January 1, 2013 and the designation of one member to the Boat Basin Nominating Committee

Councilwoman Parker made a motion, seconded by Councilwoman Keith and unanimously carried, to approve the appointments of Richard Dempsey and Greg Gavlik to the Boat Basin Commission for two-year terms expiring on January 1, 2013 and Ford Winters to the 2011 Boat Basin Nominating Committee for a one-year term expiring January 1, 2012.

19. One appointment to the Board of Architectural Review for a two-year term, by the Mayor with Council approval

This agenda item was deferred.

20. One appointment to the Board of Appeals to fill a term expiring on January 1, 2013, by the Mayor with Council approval

This agenda item was deferred.

21. One appointment to the Rye Town Park Advisory Committee for a one-year term, by the Mayor with Council approval

Councilwoman Gamache made a motion, seconded by Councilwoman Parker and unanimously carried, to appoint Elinore White to the Rye Town Park Advisory Committee for a one-year term expiring on January 1, 2011.

22. Designation of Chairman of the Rye Town Park Advisory Committee by the Mayor

Mayor French designated Michael Corbett as Chair of the Rye Town Park Advisory Committee for a one-year term.

23. Acceptance of Grant Award from Governor’s Traffic Safety Committee in the amount of \$1,800 for participation in the “Child Passenger Safety” program  
Roll Call.

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

**WHEREAS**, the City of Rye has been awarded a New York State grant in the amount of \$1,800 for participation in the statewide 2010 “Child Passenger Safety” program; now, therefore, be it

**RESOLVED**, that the City of Rye accepts the aforementioned grant.

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.

24. Acceptance of Grant Award from Governor’s Traffic Safety Committee in the amount of \$8,040 for participation in the “Buckle Up New York” program  
Roll Call.

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

**RESOLVED**, that the City Council of the City of Rye hereby authorizes the City Manager to accept a Grant Award from the Governor’s Traffic Safety Committee in the amount of \$8,040 for participation in the “Buckle Up New York” program.

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.

25. Miscellaneous Communications and Reports

Mayor French announced topics that he had in mind for the September 27<sup>th</sup> City Council Special Meeting/Workshop: Rye Golf Club; a Conservation Commission/Advisory Council to discussion of the tree ordinance; a report from the Sustainability Plan subcommittee; and, an update from the City Planner on stop signs. He said he had also invited the Chamber of Commerce and the Recreation Commission to attend.

26. Old Business



Councilman Filippi noted that he had received a certified notice of a public meeting as is now required by local law. He added that he had discussed the process with the sender who felt that the minor inconvenience of the process was worth having proof that the letter was delivered. Mayor French said that he has received feedback saying that the Post Office will only allow six certified letters to be processed at a time, which can be time consuming. He suggested the Council might want to get feedback from the architects about the process.

Mayor French said that he and Councilwoman Parker had attended the first meeting of the Rye Playland Strategic Planning Working Group (Playland Working Group). The County has made the RFP a broader document in order to attract many responses. He and Councilwoman Parker will most likely sit on the screening committee for the RFP's at the County level.

27. New Business

Councilwoman Parker said that the next meeting of the Playland Working Group would be held on Monday, October 4<sup>th</sup>.

Mayor French asked City Manager Pickup, in light of the manhole issue in Tarrytown, if the City had all of the required precautions and training in place. City Manager Pickup said that there is volunteer and full-time fire training and public works training. He has asked that the departments coordinate their files to make sure everyone has the certifications they need and that the files are up-to-date.

28. Adjournment

There being no further business to discuss Councilwoman Gamache made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk