

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on March 2, 2011 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 Council convened at 7:02 p.m. Mayor French made a motion, seconded by Councilman Jovanovich and unanimously carried, to immediately adjourn into Executive Session to discuss real estate matters. Councilman Sack made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the Executive Session at 8:15 p.m. The regular meeting convened at 8:25 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

Mayor French noted the passing of Ned Pugh, who had been a member of the committee that established the City Manager form of government in Rye.

4. Draft unapproved minutes of the regular meeting of the City Council held February 9, 2011

Councilwoman Keith made a motion, seconded by Councilwoman Gamache and unanimously carried, to approve the minutes of the regular meeting of the City Council held on February 9, 2011, as submitted.

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

Lear Beyer, representing the Westchester Children's Museum, requested that the Council include language regarding locating the Children's Museum in the North Bathhouse at Playland in the principles Resolution it would be considering later in the Agenda.

John Carolin, 66 Milton Road, asked if a decision had been made regarding the request of the American Legion to upgrade the flags on Purchase Street to larger flags. He said the Legion Post would be willing to share some of the cost. City Manager Pickup said he had been in contact with another member of the Legion regarding the issue.

Ken Weissberg, 16 Loewen Court, asked for an update on the Central Avenue Bridge. City Manager Pickup said there was a meeting with the Department of Transportation (DOT) on February 22nd. They have agreed to move the bridge project on a separate track from the Theodore Fremd Avenue Wall project. The design report for the bridge is fully submitted. The City must obtain NEPA compliance (the Federal Highway Administration Environmental Review Process) and will then receive a Disadvantaged or Minority Business goal for the bridge and at that point the City will be authorized to out to bid. He said he believed the project might be out to bid in the Summer, and estimated construction could start in the Fall.

Robert Schubert, 980 Forest Avenue, spoke about issues related to his lawsuits in connection with the pond on his property. He asked that the City conduct a city-wide referendum to establish the true position of the residents relative to his issues. Corporation Counsel Wilson said that his representatives are in contact with the City and a public meeting is not the proper forum to discuss aspects of the litigation.

Sis D'Angelo, Wappanocca Avenue, asked if there have been any discussions with Metro North regarding repairing the wall under the railroad bridge on Purchase Street. City Manager Pickup said that project is not included in the current station program and would have to be a new appropriation.

Chuck Pateman spoke about two matters. (1) It is his belief that if the decision from the Federal Court in the Schubert matter goes against the City it will be a serious problem. (2) The recent court decision in connection with Hen Island that said the City has the authority to enforce a law that is currently in the City Code. He said the City should not consider repealing the law. He read from an article in the *Journal News* regarding septic system requirements in towns located near reservoirs and said the requirements imposed were similar to those already in the Rye City Code. Mayor French said that the City has reengaged the County in connection with issues on Hen Island including potable water, building violations, storage and disposal of sewage, and mosquitoes. City Manager Pickup said that a February 14th letter from Ray Tartaglione was forwarded to the County and the Health Department and members of the County Executive's staff are working on it. The City will respond when they receive the County's recommendations.

Ray Tartaglione read excerpts from a 2007 report on an investigation conducted on Hen Island by the Department of Public Safety, the County of Health Department and the City Building Department. He said the City did not need to wait for recommendations from the County on Hen Island because they have already been made. City Manager Pickup said the report was attached to Mr. Tartaglione's February 14th letter that was forwarded to the County.

He added that when recommendations from the County are received Mr. Tartaglione will be made aware of them.

Jim Amico, 350 Midland Avenue, said that the Department of Public Works continues to plow snow into the corners of crosswalks and suggested the City should change the way snow is plowed. He also said that there is garbage on Purchase Street that would not have been there if the street had been completely cleared of snow as has been done in the past.

6. Mayor's Management Report
• Legal Update

Corporation Counsel Wilson reported on the following issues:

Delli Paoli v. Board of Appeals – The petitioner in this Article 78 proceeding has submitted Reply papers and the matter is now fully submitted and pending in Westchester County Supreme Court.

Beaver Swamp – Harrison has submitted the updated Traffic Impact Study on the Beaver Swamp Brook application. The Department of Environmental Conservation (DEC) has all the information they sought from Harrison and should make a SEQRA decision within the next few weeks on the environmental impact of Project Homerun.

7. Public Hearing regarding the establishment of the Kirby Lane Extension Sanitary Sewer Special Assessment District

Dolph Rotfeld, of Dolph Rotfeld Engineering, provided an update on the project. The preliminary plans have been finished; discussions have been held with the Health Department, and his company is ready to proceed with the final drawings, pending a decision by the Council. City Manager Pickup said that the final vote tally on the most recent petition is 25 voting in favor of the district and four voting against, which is well in excess of the 66 2/3% statutory requirement.

Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to open the public hearing.

- *Richard Slack, Grace Church Street*, asked if the current plan called for use of the infrastructure that was built for the last Kirby Lane Sewer Special Assessment District. If so, he said there should be a reduction in the assessments charged to the residents in that district, who paid for the infrastructure.

Councilman Sack questioned why people would vote against the proposed district and asked why people who don't want the district have to be included. He also asked if there was a health reason why those people should not be excluded. Mr. Rotfeld said everyone should be included in the interests of public health and the public at large. He said the public health benefit of a sewer line over a septic system is that the useful life of a septic system is only 20 years in ideal conditions. City Manager Pickup said that the Health Department approved the

district as shown, which included those properties and he is not sure if the approval would be given if those lots were excluded.

- *Greg Ressa, Kirby Lane*, said that the process began in 2009 and there have been at least three hearings and a workshop. Everyone has had an opportunity to state their concerns and indicate their support or opposition to the project. The creation of the district was supported by 86% of those in the district.
- *Gene McGuire, Kirby Lane*, said that the district should be approved for the health of the water in Long Island Sound.
- *Diane Beveridge, Kirby Lane*, said that if those who do not want the district were excluded from paying, it would not be fair to those who did if the homes are sold and the new owners wanted to hook up to the sewer.

Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to close the public hearing.

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

RESOLVED that the City Council of the City of Rye hereby approves the establishment of the Kirby Lane Extension Sanitary Sewer Special Assessment District.

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.

8. Consideration to set a Public Hearing to amend Local Law Chapter 53, Section 53-2, "Membership of Architectural Review Board", stipulating residency requirements for architects serving on the Board of Architectural Review

Councilman Jovanovich said that by changing the citizenship requirement for the Board of Architecture Review (BAR) it was a great way to widen the pool of talent of qualified people to serve on the Board. Mayor French clarified that the law would require the person to be a resident of Rye but not a United States citizen. He also suggested reducing the number of members from seven back to five.

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

WHEREAS, the Council wishes to amend Chapter 53 “Architectural Review” of the Code of the City of Rye by amending Section 53-2 “Membership of Architectural Review Board”; 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 March 16, 2011 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 53,
“Architectural Review” by amending §53-2 “Membership of Architectural
Review Board” of 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 16th day of March, 2011 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 53, “Architectural Review” by amending §53-2 “Membership of Architectural Review Board” of the Code of the City of Rye

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

Dawn F. Nodarse
City Clerk
Dated: March 3, 2011

Agenda Item 10 was taken out of order.

9. Resolution on potential uses for Rye Playland to be submitted to Westchester County

Mayor French said that the RFP’s (Requests for Proposal) regarding ideas for Playland are due to the County on March 10th. The Mayor and Charles Dorn, Chair of the Playland

Advisory Committee and Playland Strategic Planning Committee, have been appointed to sit on the County Committee that will review the proposals. The Resolution for consideration at this meeting will be forwarded to the County in order to officially notify the County of what the City of Rye would like to see at Playland. Councilwoman Parker reported briefly on the Town Hall meeting she had held for children to obtain their opinions on what should be done at Playland and noted that they had presented some very sophisticated ideas that touched on marketing and advertising.

Tracy Kay, representing the Westchester Children's Museum ("the Museum"), outlined the Museum Board's reasoning for requesting that reference to the Museum to be located in the North Bathhouse be included in the Resolution based on the long-process of obtaining the approvals necessary for that location and the money that will be invested into the location by the Museum in exchange for a ten-year, \$1 per year lease from the County. He said that if any other proposed use for that location was accepted, the approval process would have to begin again. There was a discussion among the Council about adding the Museum to the proposed Resolution and how it would be included in a Resolution that espoused principles, and, if added, where and how it would be included. Charles Dorn, Chairman of the Playland Strategic Planning Committee, advised against putting language about the Museum being located in the North Bathhouse, saying that there had not been a consensus of the Committee that it should be located there. There was also a discussion regarding the inclusion of additional language to the Resolution referencing the City's Zoning Code, Master Plan and LWRP in order to better protect Rye's interests. On the other hand, it was suggested that approving a Resolution prior to the RFP's being considered could "handcuff" the City as the project proceeds.

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

**RYE CITY COUNCIL RESOLUTION REGARDING THE CITY'S PRIMARY
PRINCIPLES AND VALUES TO BE APPLIED DURING WESTCHESTER
COUNTY'S REVIEW OF PROPOSALS SUBMITTED IN RESPONSE TO THE
REQUEST FOR PROPOSAL ENTITLED "REINVENTING PLAYLAND
PARK FOR THE 21ST CENTURY"**

WHEREAS, in anticipation of Westchester County issuing a "Request for Proposal" (RFP) about Playland, the Rye City Council (the "City Council") appointed a Playland Strategic Planning Working Group in 2010. Soon thereafter, Westchester County issued the RFP entitled "Reinventing Playland Park for the 21st Century. "

WHEREAS, through the fall of 2010 and the beginning of 2011, the Playland Strategic Planning Working Group met on a regular basis to educate themselves on the issues concerning Rye, our residents and Westchester County. These public meetings plus community forums, a tour of the park and a significant amount of formal and informal input from our residents have allowed us to present the following findings.

WHEREAS, the County's RFP is unusual because it does not reflect any particular vision for Playland and invites responses to supply such a vision. Therefore, widely differing responses reflecting many visions can be expected. In light of this, the Rye Playland Strategic Planning Working Group has not focused on defining a "Rye vision" for Playland. Instead it has sought to identify principles and values it believes should be applied to evaluate responses to the request for proposal.

NOW, THEREFORE, BE IT RESOLVED, that based on the Playland Strategic Planning Working Group's findings, the City Council adopts the following principles:

1. Playland is first and foremost a public resource for the use and enjoyment of all residents of Rye and Westchester County. Any proposed use of the Playland site should be consistent with insuring public use of and access to open space, Long Island Sound and facilities.

There is wide scope for enhancing existing facilities and open space and increasing access to them, while ensuring pedestrian safety. These opportunities range from such simple measures as ensuring walks are open more frequently to more substantial but not new undertakings such as enhancing the aquatic facilities

New uses such as augmented concert, sports or other facilities may also be proposed and, if so, should also be assessed in the same light. While private enterprise may have a role in any proposed use of Playland, the role should nevertheless be consistent with preserving and enhancing open space available to all.

Rye supports the establishment of the Westchester Children's Museum in the North Bath House.

2. Any use of the Playland site must be sensitive to environmental considerations and sustainability, including the integrity of the Edith Read Sanctuary, Playland Lake and the waters of Long Island Sound. Playland's fragile natural site requires any proposed use be carefully examined for adverse impact. Sewage, solid waste, noise and visual pollution intrusive to neighbors are vital considerations as are congestion and energy efficiency. Any future use of Playland should emphasize the improvement of the environmental impact to the site.
3. A substantial portion of Playland has been designated a National Historic Landmark. This is the highest level of national historic designation and reflects Playland's unique historical importance. While adaptive uses of existing facilities or changes, removal or replacement of structures which are not national historic landmarks could be considered, any of these should be consistent with the historic heart of Playland.

4. Any proposal affecting the Playland site must be examined to insure it is both financially responsible and sustainable. Demonstrated financial viability over the long term is an essential criterion in evaluating any proposal. However, public parks rarely are profitable in a commercial sense, and an appropriate proposed use could well contemplate a sustainable level of public expenditure to maintain the existing or a re-envisaged Playland and supporting infrastructure. Proposed uses consistent with the principles set forth above that present opportunities to reduce these costs or the portion of them borne by the public should be given careful consideration.

5. Rye has a long established designated zoning policy which reflects a careful balancing of many considerations. This policy is reflected in the Master Plan, the Zoning Code, the Local Waterfront Revitalization Plan and other chapters within the Rye City Code concerning environmental and other health and safety issues (e.g., wetlands, stormwater runoff). These laws and regulations protect the interests of affected neighborhoods and the community at large.

Any proposal affecting Playland should comply with existing Rye ordinances. New structures or uses should be on a scale including height and mass and in a style consistent with, or complimentary of, Playland's site, neighborhood and access.

ROLL CALL:

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

The Resolution was adopted by a vote of 6 in favor and 1 abstention.

There was also a discussion about members of the Council taking a stand on proposals being made in connection with Playland prior to the RFP's being reviewed. Corporation Counsel Wilson advised the Council not to take a position regarding any proposal prior to the County opening and reviewing same in order to prevent possible accusations of conflict of interest or bias if Council action is required on any proposal in the future.

10. Resolution to adopt the proposed changes to the City of Rye's post 65 retiree Aetna health insurance program

Prior to the adoption of the proposed Resolution, members of the Finance Committee gave a presentation regarding public sector pension and benefit trends. David Mullane, Chair of the Finance Committee, said that a subcommittee of the Committee was formed to look at both

healthcare and pension benefits. The subcommittee, that included Norm McMasters, Mike Cappanitti, Mike Guarneri, Warren Keegan and Fred Dunn, focused on healthcare because it is a local or contractual issue that the City can address in contrast to pension reform, which is controlled by the State Constitution. The presentation by members of the subcommittee included the following topics:

- The size of Rye's healthcare liability;
- A comparison of approaches to benefits taken by the private and public sectors;
- Remedial action taken by other state and local entities;
- Recommended actions for Council consideration.

City Manager Pickup said that there are parameters in New York State that define what changes the City can make. He said the proposal under consideration by the Council at this meeting is a good first step because healthcare is the area where the City has the best opportunity to make changes. The proposal under consideration is a change to the post 65 retiree benefits. It is a change within a sustainable, comparable program that provides a direct benefit cost to the City. Public information sessions have been held at City Hall, and were also put on the City website. The City is trying to preserve as many benefits as possible within an affordable and reasonable approach. The City intends to bring this discussion to other units in order to address the long-term liabilities. City staff met with members of the Finance Committee and it was the consensus that this was a correct approach for the City to begin with.

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

RESOLVED, that the City Council of the City of Rye hereby adopts the proposed changes to the City of Rye's post 65 retiree Aetna health insurance 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.

11. Authorization for City Manager to enter into a preservation easement with the New York State Historic Preservation Office in satisfaction of a grant for the Rye Meeting House from the National Park Service

City Manager Pickup said that this action was tied to the Save America's Treasures Grant previously approved for the Rye Meeting House. By approving the Conservation Easement Agreement, the City is fully eligible to receive the \$49,305 in grant money.

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

RESOLVED, that the City Manager is hereby authorized to enter into a Conservation Easement Agreement with the New York State Historic Preservation Office for the Save America's Treasures Grant for the Rye Meeting House.

ROLL CALL:

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

The Resolution was adopted by a 6-1 vote.

12. Appeal of denial of FOIL request by Timothy Chittenden

Corporation Counsel Wilson said that the documents requested were provided with certain information redacted because the matter in question is an open police investigation and because of the personal privacy of the individual involved as constituted under the Public Officers Law.

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

RESOLVED that the appeal of the partial denial of a Freedom of Information Law (F.O.I.L.) request made by Timothy Chittenden 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.

13. Miscellaneous Communications and Reports

Councilwoman Parker announced that she and Corporation Council Wilson are members of the Rye Lions Club. She said it is a wonderful organization and encouraged people to join.

Councilwoman Keith said that the Shared Roadways Committee is currently out speaking with the public about opportunities to improve pedestrian safety. The Sustainability Committee is holding a Stakeholders Meeting on March 31st at the Rye Free Reading Room. Grassroots Environmental Education is having a seminar at the Westchester Green Town Conference on May 17th at Wainwright House.

14. Old Business

Councilman Sack asked City Manager Pickup to provide a report on properties currently not taxed that possibly could be taxed.

15. New Business

City Manager Pickup said that City Assessor Noreen Whitty has asked to hire special counsel to assist the City in a pending tax certiorari case. He asked the Council to agree to hire Richard Blancato, Esq.. He said the City would work within a capped fee if the Council so desired.

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

RESOLVED, that the City Manager is authorized to retain Richard Blancato, Esq. to represent the City of Rye in the tax certiorari matter *Carroll v. The City of Rye*.

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. Adjournment

There being no further business to discuss Councilman Sack made a motion, seconded by Councilwoman Gamache and unanimously carried, to adjourn the meeting at 11:34 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk