

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on March 16, 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 7:30 p.m. Mayor French made a motion, seconded by Councilman Jovanovich and unanimously carried, to immediately adjourn into Executive Session to discuss personnel matters. Councilwoman Gamache made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the Executive Session at 8:10 p.m. The regular meeting convened at 8:17 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 said that the thoughts of the community were with the people of Japan as a result of the recent earthquake.

4. Draft unapproved minutes of the regular meeting of the City Council held March 2, 2011

Councilwoman Gamache made a motion, seconded by Councilwoman Parker and unanimously carried, to approve the minutes of the regular meeting of the City Council held on March 2, 2011, as submitted.

5. Mayor's Management Report

- Flood Control Projects Update

City Manager Pickup provided an update on the following flood-related projects:

Sluice Gate: A meeting was held with Rye Brook to finalize the Inter-municipal Agreement (IMA), which deals with maintenance, operation and testing; communication between the municipalities, and internal communication with the system. The IMA will come before the Council for approval and once final design is approved the IMA will kick off the Rye Brook Share of the project cost, which is the final source of funding for the project. If bids can be awarded in June, work could start in July and possibly be completed over the summer.

Pending FEMA Grants: Two grants are pending from 2008 and 2009 Congressional earmarks. The State Emergency Management Office (SEMO) that manages the grant process has consolidated three years of grant funding and is supposed to be issuing grant awards. When the grant approval is received, the City has a scope of the necessary work, which can be put in the field fairly quickly. There is no local match of funds required for these grants.

Central Avenue Bridge: The City has all the preliminary design approvals and will be meeting with the utility companies to finalize agreements. The City must then get a Disadvantaged Business Enterprise Goal for participation in the funding stream and the final Notice to Proceed from the State before going out to bid on the project. The City may be able to award the bid as early as July and be mobilized on site prior to the beginning of the school year.

Theodore Fremd Avenue Wall: There are right-of-way issues and this project is six-months to a year behind the Central Avenue Bridge project before final design approval.

Nature Center Bridge: The bridge has been yellow-flagged for weight restriction. The City has identified \$15,000 in the capital budget for an epoxy injection project, but must wait for proper weather conditions to do the work.

- Legal Update

Corporation Counsel Wilson reported on the following matters:

Delli Paoli v. City of Rye: A Notice of Entry on the Decision and Order was received in connection with this Article 78 proceeding against the Zoning Board of Appeals. The Judge remanded the matter back to the Board for further findings consistent with its authority under the City Code.

People v. Schwartz: The defendant has appealed a trial decision in City Court. The matter has been fully briefed in the Appellate Term and the City has received a notice that Oral Argument is coming up.

Beaver Swamp Brook: A Negative Declaration has been received from Department of Environmental Conservation (DEC) staff, which means that the SEQRA process has ended. There is a concurrent Administrative Law process going on. The Administrative Law Judge (ALJ) had previously ruled that there were certain issues that need to proceed to an Adjudicatory hearing. The City is waiting for the ALJ to come down with a time frame within which certain decisions will have to be made.

6. Consideration of a request by the Milton Elementary School PTO to approve a parade to precede the Milton Elementary School Fair on Saturday, March 19, 2011 from 9:00 a.m. to 10:15 a.m.

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

RESOLVED, that the request made by the Milton Elementary School PTO to approve a parade to precede the Milton Elementary School Fair on Saturday, March 19, 2011 from 9:00 a.m. to 10:15 a.m., is hereby approved.

7. Public Hearing to amend Local Law Chapter 53, Section 53-2, "Membership of Architectural Review Board", to reduce the number of Board members from seven to five and to permit non U.S. Citizens to serve on the Board

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

There was no one from the public wishing to speak on the proposed local law.

It was the consensus of the Council to move forward with the proposal to allow non U.S. citizens to serve on the Board of Architectural Review and defer from reducing the number of members on the Board from seven to five at this time.

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

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

**CITY OF RYE
LOCAL LAW NO. 1 2011**

A local law to amend Chapter, 53-2 "Membership of Architectural Review Board" of the Code of the City of Rye as follows:

Section 1

§ 53-2 Membership of Architectural Review Board.

In accordance with Article 19 of the Rye City Charter, there is hereby created a Board of Architectural Review which shall consist of seven members who shall serve without compensation. All members of the Board shall be lawful residents of the City and shall be specially qualified by reason of training or experience in architecture, land development, community planning, real estate, landscape architecture, architectural history, engineering, law, building construction or other relevant business or profession, or by reason of civic interest and sound judgment to judge the effect of a proposed erection, reconstruction or

alteration of a structure upon the desirability, property values and development or preservation of surrounding areas and to understand and carry out the legislative findings and policy statements of the Council set forth in §53-1. There shall be no requirement that a member of the Board be a citizen of the United States. At least one member shall be a registered architect in the State of New York. The Chair and other members of the Board shall be appointed by the Mayor, with the approval of the Council, for terms of three years, with staggered terms, such terms to be subject to renewals at the discretion of the Mayor, subject to the approval of the Council, except that one new appointment made in 2006 shall be for a two-year term, and one new appointment made in 2006 shall be for a one-year term so that term, and thereafter their successors shall be appointed for terms of three years from and after the expiration of the term of their predecessors in office. In the same manner, vacancies shall be filled for the unexpired term of any member whose place has become vacant.

Section 2

This law will take effect immediately upon filing with the New York State.

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.

8. Presentation on Parking Technology

Former City Councilman Gerry Seitz, representing the company StreetSmart Technology (SST), made a presentation regarding new parking technology offered by the company and a proposal the company has made to the City. He noted that the first parking meters were developed 75 years ago for the purpose of increasing turn over in parking spaces. SST is a sensor-based technology that provides data about when a vehicle enters and leaves a parking space. It could also be utilized on streets that currently are not metered, but they would have to be striped. This data can be used to determine how spaces are being used as well as who is in violation. SST proposes to install 50 sensors (pucks) in the ground on a test basis for 30 days. At the end of that time they will make recommendations for the City's consideration based on the data collected. At the end of 90 days the City would decide if they want to go forward with the system. The cost of the system would be approximately \$1 per day, per puck (\$279,225 per year for 765 spaces in the Central Business District). He added that the pucks do not interfere with cell service and the system can be programmed with a grace period.

The Council asked Mr. Seitz to provide them with information from other communities that have implemented the technology. They also indicated that they would like to have input from City staff, the Chamber of Commerce and the public prior to making any decision.

9. Presentation by Commissioner Connors on Coyote Season

Police Commissioner Connors began his presentation by reviewing what had happened in the Summer of 2010 when the City experienced a period of unusual coyote behavior and how the City had reacted. Currently, there have been few sightings of coyotes, but an increase in the deer population, which is a food source for coyotes, has been noted. He summarized the typical life patterns and feeding habits of coyotes and said that the animals can become dangerous when they lose their fear of humans. There is no unusual activity anticipated on the part of coyotes, but the City must be prepared with the warmer weather coming. The City has not been issued a trapping permit by the DEC this year, but has been issued a hazing permit, in order to reinforce the animal's natural fear. He advised residents to: be aggressive and make loud noises around coyotes; do not feed them; secure garbage cans; do not let small pets run free; supervise small children; and report coyote sightings and unusual behavior to the Police Department.

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

Robert Schubert, 980 Forest Avenue, again spoke about the issue of his pond. He said the Council does not know what is going on because nobody is speaking to him. Mayor French again advised Mr. Schubert that since the matter is being litigated, the proper forum for discussion is through the Courts. The City's Counsel is speaking with his Counsel.

Donna and Thomas Wundeler, 552 Milton Road, asked the Council to allow residents who have been receiving tickets for parking on Park Lane during the snow ordinance season, to park in the lot at the Milton Fire House. They believe that the option offered by the City to purchase parking permits for the lot near Dockside Deli is not acceptable. City Manager Pickup said that before committing to the suggested option, he wanted to receive feedback from the Fire Department and the Clerk's Office about how permits could be issued.

Jim Amico, 350 Midland Avenue, spoke about his request for a stop sign on Midland Avenue and asked if the stimulus projects had been signed off on yet so a stop sign could be put up. City Manager Pickup said that the City supplies information to the Federal Government on Stimulus-related project as asked and when clearance for final payment is received, there will be a discussion of implementing a pilot program for a stop sign, similar to the downtown.

11. Resolution for sole source approval for Phoenix Environmental Care products for fairway lawn maintenance fertilizers and Earthgreen Products for greens maintenance products
Roll Call

City Manager Pickup summarized the Golf Club's program for greens maintenance and noted they are a leader in the community in trying to follow integrated pest management practices and sustainable practices for turf management. He said the program developed is fairly scientific and, therefore, they are asking for the ability to continue to use the provider of these products as a sole source vendor in order to continue the program. There was a discussion among the Council about the possibility that other companies could provide the same service and a sunset clause for the approval sought was suggested.

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

RESOLVED, that Phoenix Environmental

Care Products is hereby designated as sole source vendor for fairway lawn maintenance fertilizers and Earthgreen Products is hereby designated as sole source vendor for greens maintenance products, such designations to expire on December 31, 2011.

ROLL CALL:

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

The Resolution was adopted by a 6-1 vote.

12. Bid Award for Street Materials (Bid #1-11)
Roll Call.

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

RESOLVED, that Bid #1-11, Street Materials, is hereby awarded to Putnam Materials for crushed stone (3/4) and graded processed stone; to Peckham Materials for sub-base (recycled concrete); binder course Types 3 and 4, shim course Type 5, top course Types 6F and 7F, and asphaltic concrete curb mix, and to Dakota Supply for Class A Concrete and K-Krete, as the bidders offering the lowest price.

ROLL CALL:

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

The bid was awarded by a 7-0 vote.

The bid tab is on the next page.

13. Consideration to set a Public Hearing to amend Local Law Chapter 93, Section 93-6, "Filming – License Fee", to amend the fee for filming in the City

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

WHEREAS, the Council wishes to amend Chapter 93, "Film Permits" of the Code of the City of Rye by amending Section 93-6 "License Fee"; 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 30, 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 93, "Film Permits" by amending §93-6 "License Fee" 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 30th 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 93, "Film Permits" by amending §93-6 "License Fee" 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 17, 2011

14. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department

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

RESOLVED, that the proposed revision of the Rules and Regulations of the City of Rye Police Department: General Order #117.8 “Mobile Video Recording Systems”, is hereby approved.

ROLL CALL:

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

NAYS: None

ABSENT: None

The Resolution was adopted by a 7-0 vote.

15. Review and discussion of FOIL Procedures

Mayor French said he had asked the Corporation Counsel and City Manager to review the current FOIL process as a first step in revising the policy. Corporation Counsel Wilson said that a benefit to analyzing the process would be to streamline the process within the City and make it less cumbersome by possibly creating one centralized FOIL email address. This would make one person responsible for acknowledging receipt of the FOIL within the first five days; distributing the request to the appropriate department for a response, which would then be referred back to the original person for forwarding to the requestor. Ms. Wilson said that she, the City Manager and representatives of the five departments that currently receive FOIL requests, will sit down and come up with a proposal. The other aspects to be considered are provisions under the Public Officer’s Law that can be incorporated in the City’s procedures regarding fees and assessing costs for staff time. Ms. Wilson said that currently about 60-70% of FOIL requests are complex and require review and possible redaction of material. There was a suggestion made that having the City Council serve as the appellate body for FOIL should also be reconsidered when the policy is revised.

16. Miscellaneous Communications and Reports

Councilman Sack said that the Rye Town Park Commission would be holding a special meeting on March 22nd to approve the drafting of specs and bidding of the automated parking system. He said decisions would have to be made on how to pay for the system and suggested that a presentation should be made to the Council by the Citizens Parking Group that reviews the proposals. Mayor French added that the Citizens Finance Group should also make a presentation. He said a “Cost Containment Committee” has also been set up to discuss the 2011 budget for the park.

Councilwoman Parker said that several people have expressed their unhappiness to her about the outsourcing of parking tickets because they are unaware of how the system works and

miss the face-to-face contact. Ms. Parker also reported that 11 proposals were received by the County for the Playland RFP, three of which were Rye-based. Mayor French added that the first operational meeting of the County Committee formed to review the proposals would be held in April. Ms. Parker also reported that the City would soon be extending the numbers that would be accepted for recycling.

Councilwoman Keith said the Sustainability Committee will be holding a Stakeholders meeting on March 31st at the Library. She thanked City staff for helping the Committee get on the City website. Ms. Keith also said the Shared Roadways Committee is talking with the public to determine what their key issues are. They are partnering with the YMCA and Safe Routes to Schools Group and focusing on education and encouragement.

17. Old Business

Mayor French said the Council is looking to hear back from staff on the Tree Ordinance some time in April for a public hearing in May. The Mayor asked if the Council could begin receiving forecasts for this year's budget in order to determine what decisions must be made. City Manager Pickup advised waiting until after the State budget was adopted.

Councilwoman Parker suggested holding workshops with the Police and Fire Departments prior to budget season.

Councilwoman Keith asked if the City would consider asking Citizens Groups to run five-year scenarios for budget planning in order to look at issues of long-term financial sustainability, similar to what is done by the School District. Ms. Keith also asked when a crossing-guard analysis could be done. City Manager Pickup said that the trend for the Board of Education seems to be reducing funding for non-teaching positions. He said the discussion might not focus on an analysis of crossing guards, but on how these reductions will be handled at the schools. He said this may be a topic for discussion at the joint meeting of the City Council and School Board.

Councilman Filippi said he knows the City has been in contact with the County in connection with Hen Island and asked if the City and County staff could go out to the island at the same time to document each location and what the violations are. City Manager Pickup said that he and Corporation Counsel Wilson have met with the County Health Department and other County representatives regarding the complaint forwarded to the County. They agree that there are aspects of the complaint that can be worked on cooperatively. They are not looking at individual units but an issue that involves all 33 units for a comprehensive view of the issues. There is only one open item on Hen Island that the City is involved in. The complaints will be addressed through a normal administrative process with the City, County Health Department and Kuder Island Colony.

Councilwoman Parker asked if the Stop Sign presentation by City Planner Miller could be moved up to the next meeting. City Manager said he would have to look at the schedule because there may already be four presentations on that Agenda.

18. New Business

Mayor French offered congratulations to Mayor Pilla of Port Chester on his reelection.

19. Adjournment

There being no further business to discuss Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn the meeting at 11:28 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk