

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on March 30, 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 7:07 p.m. Councilman Sack made a motion, seconded by Councilman Jovanovich and unanimously carried, to immediately adjourn into Executive Session to discuss attorney/client matters. Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn the Executive Session at 8:07 p.m. The regular meeting convened at 8:15 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 announced the passing of Kate Loree, who established the Rye Handicapped Association.

The City has received all of the \$1 million in grant money for the acquisition of the Bird Homestead.

The Council should consider passing a Distracted Driver Pledge about no texting and driving.

The State has mandated that street signs must be replaced. Old street signs can be purchased from the City for \$20. Information can be found on the City website.

4. Draft unapproved minutes of the regular meeting of the City Council held March 16, 2011

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to approve the minutes of the regular meeting of the City Council held on March 16, 2011, as amended.

5. Approval of the election of one new member to the Rye Fire Department

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

RESOLVED, that the City Council of the City of Rye hereby approves the election of Robert Martin to the Fire Police Patrol Company, as approved at the last meeting of the Fire Wardens.

6. Mayor's Management Report

● Capital Projects Update

City Manager Pickup provided updates on the following projects:

Locust Avenue/Central Business District (CBD) stop signs: A presentation on the layout will be made on April 13th. The goal is to have the project approved, bid and ready to go out for construction after the Sidewalk Sales.

Stimulus Projects: An audit was done by the Federal Highway Administration. The City has responded to their questions and is currently waiting for close out of the project.

Bowman Avenue Projects: (1) The FEMA project regarding the resizing of the upper pond – a federal biologist performed an endangered species habitat survey this week. The City is awaiting federal authorization to proceed. (2) Sluice Gate project – a meeting was held with the City, Village of Rye Brook and the engineers. When the IMA is completed it will unlock the Rye Brook portion of the financing. The project will come back to the Council in May for approval and will then go out to bid.

Resurfacing Program: The City will finish work on Oakland Beach Avenue this Spring utilizing money saved from last year's budget. Work must be done on Hewlett Avenue as a result of the force main project. It will be done after the end of the school year. Work must also be done on the Post Road from 1037 down to the High School. The City will try to coordinate with the company doing water relining projects for United Water in order to have the work completed prior to school opening in September.

Central Avenue Bridge: The City has received final design authorization from the Department of Transportation (DOT). It may be possible to award bids for the project by August and begin construction in early Fall.

Nature Center Bridge: The City is waiting to hear from the contractor as to the dates when he will be able to come and do the epoxy application to the bridge.

Old Milton Road Drain: The engineering design work is being done. It will come back to the Council for approval with work possibly beginning in the Fall after the end of boating season.

Peck/Midland Intersection improvements: This project is impacted by other projects and could possibly go out to bid in the Fall.

- Legal Update

Corporation Counsel Kristen Wilson reported on the following matters:

Shew v. City of Rye: Plaintiff's papers in opposition to the City's motion to dismiss have been filed in this case that is pending in Westchester Supreme Court. The City has ten days to serve reply papers.

Schubert v. Planning Commission: Judge Barbara Zambelli rendered a Decision, Judgment & Order dismissing the Article 78 Petition in this case, stating the petition was time-barred and failed to state a cause of action.

7. Finance Committee Review of the Rye Town Park Budget

Paula Schaefer, who serves on both the Finance Committee and Rye Town Park Advisory Committee, reported on a review of the 2010 financial statements for the Park. There was a discrepancy of over \$100,000 in the loss projected in the draft financial projections for 2010 issued in September (projected \$30,000 loss) and the year end financial statement issued in December (projected \$140,000 loss). She said her intent was to see where improvements to transparency in the reports could be found. She said that recommendations she made at a meeting of the Rye Town Park Commission meeting in March were well received by park staff. She summarized her recommendations:

- Revenue figures were higher than projected in September -- Reconciliations of revenues received should be done on a more regular basis.
- Salary expenses were higher than projected in September -- Work sheets should be used to estimate expenses relating to staffing the park both for expenses that have occurred during the season as well as expenses that will be incurred in closing down the park.
- Unemployment expenses were underestimated in September -- Since the Town self-insures for unemployment insurance, they should consider paying into a fund for unemployment or changing hiring practices to classify workers in the park as seasonal and, therefore, not entitled to unemployment insurance.

- Interest expenses were higher than projected in September – The Town of Rye charges interest at 5% for funding capital projects in the park during the year and estimates were based on past expenses. The million dollars for the roof project was not taken into consideration in the estimates. The money expended by Rye Town should be tracked better during the year and a published market rate should be used for interest charges. The City should be given an opportunity to pay for its share of capital expenses in the park during the year.
- The City should be given an opportunity to pay its share of the deficit on a quarterly basis during the year.

Ms. Schaefer said that if some of the suggested changes were made it could make the Park's financial statements more transparent and more reliable for purposes of budgeting and decision making. She also suggested that automation of parking and beach revenue would not only reduce costs at the park but would also facilitate more timely and efficient reporting and produce reliable data for staffing purposes and reconciling the number of cars with the number of transactions entered into the system on a daily basis.

It was noted that the Town of Rye was looking into dissolving itself and the City should be prepared to take over the Park as the process accelerates. City Manager Pickup said that the City will have more involved discussions with the Council as that process proceeds. Mayor French said the City would like the reconciliation process for the Park to be concluded prior to when the City adopts its budget.

8. Presentation on Rye Town Park automated parking initiative

Kristina Bicher of the Rye Town Park Parking Task Force and Dan Mathisson of the Rye Town Park Advisory Committee made a presentation regarding a proposal to automate the parking in Rye Town Park. Automating the parking system would provide the following advantages: (1) decrease staffing costs; (2) add accountability and controls; (3) increase revenue; and (4) accurately collect data. In January, Rye Town Park issued a Request for Proposals (RFP) for designs for automated parking and received responses representing three options: (1) pay on entry; (2) pay and display a record of payment; and (3) receipt of card on entry with payment on exit. They presented what they believed were the advantages and disadvantages to each option. It was the consensus of the professional staff and the Advisory Committee that the card on entry and payment on exit option was the best. It was estimated that \$82,000 could be saved by automating both the parking and beach admissions systems with revenue gains of approximately \$103,000. The estimated cost to automate the system including installation is \$140,000 to \$160,000 with annual costs of approximately \$30,000. They estimate that the system would pay for itself in 12 to 24 months and, thereafter, generate a net benefit of approximately \$150,000 per year. Bid documents are being drawn up and if the Rye Town Park Commission approves of automating the process the goal is to award a contract in June and have the system installed and "go live" just after Labor Day. City Manager Pickup said that there was no appropriation identified in the 2011 City budget for this project.

9. Resolution endorsing the East Coast Greenway Route through the City of Rye

Steve Cadenhead, a co-chair of the Shared Roadways Pedestrian Safety Committee, said that the Committee supports the Council adopting a Resolution endorsing the East Coast Greenway Route through the City. The East Coast Greenway is a shared use route that runs the entire length of the East Coast seaboard and is managed by The East Coast Greenway Alliance, a non-profit organization. The Resolution does include a specific route, but it is flexible and could be altered in the future. There are no changes required to be made by the City upon adoption of the Resolution. Signs, which will be provided by the Greenway Alliance, will be put up marking the route.

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

WHEREAS, the East Coast Greenway is a proposed 2600-mile, shared-use pathway that will pass through Westchester County to connect cities, towns and villages along the eastern seaboard from Calais, Maine, to Key West, Florida; and

WHEREAS, New York is one of 15 states and the District of Columbia through which the Greenway runs; and

WHEREAS, The Greenway, considered the “urban equivalent of the Appalachian Trail,” will pass through sites showcasing the nation’s industrial, historic, and cultural diversity; and

WHEREAS, the Greenway supports the City’s commitment to environmental sustainability, increasing pedestrian and non-motorized transportation options while improving air quality, reducing roadway congestion and encouraging ecotourism; and

WHEREAS, the Greenway will spur the building of a network of pedestrian and bicycling greenways through New York, a goal encouraged by the New York Department of Transportation and other agencies; and

WHEREAS, the Greenway will serve non-motorized users, both local residents and long-distance travelers; and

WHEREAS, the Greenway will encourage people of all ages to be outdoors more, improving their health and physical fitness while enjoying their playing fields, parks and nature preserves; and

WHEREAS, the Greenway, by offering tourists and shoppers access to cultural and historical sites, will bring economic benefits to municipalities and businesses along the route; and

WHEREAS, the Greenway route is fluid and can easily be altered in the future based upon future improvements or other considerations.

NOW, THEREFORE, BE IT RESOLVED, that the City of Rye, New York, hereby endorses the concept of the East Coast Greenway and its passage through the City of Rye along the initially designated route of Grace Church Street to Forest Avenue to Playland Parkway to Old Post Road to Playland Access Drive to Theall Road to Osborn Road, and

BE IT FURTHER RESOLVED, the East Coast Greenway Alliance is hereby authorized to provide necessary signage to assist the City to erect signage along the route, and

BE IT FURTHER RESOLVED, that the City of Rye, New York encourages our neighboring cities, towns and villages to endorse the East Coast Greenway and establish linking routes, and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be forwarded to the East Coast Greenway, the Governor of the State of New York, the New York State Department of Transportation, the Westchester County Planning Department, the Village of Port Chester, the Town of Harrison, the Town of Mamaroneck, the Village of Mamaroneck, the Village of Larchmont, the City of New Rochelle and the Village of Pelham Manor.

Agenda item 15 was taken out of order.

10. Resolution to authorize the implementation and funding for the Central Avenue Bridge project under the Emergency Relief Program, PIN 8701.43

City Manager Pickup said that this Resolution was a secondary resolution to the one passed in May 2008. The proposed Resolution updates that Resolution to include additional costs that are now being covered for engineering and professional services. There are no additional appropriations required by the City.

Councilwoman Keith made a motion, seconded by Councilman Filippi, to adopt the following Resolution authorizing the implementation, and funding in the first instance 100% of the federal-aid of transportation federal-aid project, and appropriating funds therefore:

WHEREAS, the project for the **ER 2007 Floods – Central Ave Bridge Replacement in the City of Rye, Westchester County, PIN 8701.43** (the “Project”) is eligible for funding under Title 23 US Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, a Resolution adopted by the City of Rye on May 28, 2008 approved and agreed to advance the Project by making a commitment of 100% of the non-federal share of the costs of preliminary engineering and construction work.

WHEREAS, it was subsequently found necessary to undertake additional preliminary engineering and construction work not contemplated in the original agreement authorized by the previous resolution; and

WHEREAS, it has been found necessary to increase the federal and non-federal share of costs for the additional preliminary engineering and construction work for the project; and

WHEREAS, the City of Rye desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of right-of-way incidental and right-of-way acquisition work for the Project portions thereof.

NOW, THEREFORE, BE IT RESOLVED, that the Rye City Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Rye City Council hereby authorizes the City of Rye to pay the first instance 100% of the federal and non-federal share of the cost of the additional preliminary engineering and construction work and the right-of-way incidental and right-of-way acquisition work for the Project or portions thereof; and it is further

RESOLVED, that the sum of 561,458 (\$2,816,537 minus previous \$2,255,079) is hereby appropriated from bonded cash and previous transfers from General Fund and Capital Projects and made available to cover the cost of participation in the above phases of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Rye City Council shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the Mayor thereof, and it is further

RESOLVED, that the Mayor of the City of Rye be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or applicable Marchiselli Aid on behalf of the City of Rye with the New York State Department of Transportation in connection with the advancement of approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding for the local share of federal-aid and state-aid eligible Project costs and all project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that in addition to the Mayor, the following municipal titles: Commissioner of Public Works, City Engineer, City Comptroller and City Manager are also hereby authorized to execute any necessary Agreements or certifications on behalf of the Municipality, with NYSDOT in connection with the advancement or approval of the project identified in the State/Local Agreement;

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.

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 the City Manager to enter into a supplemental Architectural/Engineering consultant agreement for the Theodore Fremd project under the Emergency Relief Program, PIN 8701.43

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

RESOLVED, that the City Manager is hereby authorized to enter into a supplemental Architectural/Engineering consultant agreement for the Theodore Fremd Avenue Wall project under the Emergency Relief Program PIN 8701.43.

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.

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

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

A representative of *The Guardian* newspaper asked what the new fee would be. Mayor French advised that the purpose of changing the law was to take the fee out of the City Code and include it in a Council discussion of all fees.

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

Councilman Jovanovich made a motion, seconded by Councilman Filippi, to adopt the following local law.

**CITY OF RYE
LOCAL LAW NO. 2 2011**

A local law to amend Chapter 93 “Film Permits” § 93-6 “License fee” of the Code of the City of Rye as follows:

Section 1

§ 93-6 License Fee.

The fee to be paid shall be determined by the City Clerk for each license, including a license for a portion of a day, as follows:

A.

License fee for use of public property. The minimum and the maximum fee shall be set by resolution of the City Council. The City Clerk, in determining the specific fee to be required, shall take into consideration the following factors which would denote a greater use of public property and therefore require higher fees:

(1)

Use of public parking spaces.

(2)

Use of vehicle travelways requiring the rerouting or directing of traffic.

(3)

Use of pedestrian travelways requiring the rerouting or directing of pedestrian traffic.

(4)

Use of public buildings during normal operating hours.

(5)

Use of other public areas during normal operating hours.

(6)

The size of the filming location.

(7)

The number of filming locations.

(8)

The number of hours the filming location or locations will be used.

(9)

Use or involvement of City personnel.

(10)

Use or involvement of City equipment.

(11)

Use of explosives.

(12)

Involve dangerous activities.

B.

License fee for use of private property. The fee for filming on private property shall be set by resolution of the City Council.

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.

13. Approval of an application for a partial refund of 2009 and 2010 real estate taxes for property located at 11 Hook Road and authorization to refund the overpaid tax amounts
Roll Call

Corporation Counsel Wilson said that normally a refund would have been approved by the City Manager. In this case, the County has denied the request for a refund, but both the City

and School District disagree with that decision. In order to counteract the County's denial, approval must be received from the Council.

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

RESOLVED, that the application for a partial refund of 2009 and 2010 real estate taxes for the property located at 11 Hook Road (tax map designation 146.16-1-23) in the amount of \$1,384.50 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.

14. Adoption of the 2011 County property tax rates

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

RESOLVED, that the tax rates for the amounts of Westchester County, Blind Brook Sewer District, Mamaroneck Valley Sewer District and Refuse Disposal District charges for the fiscal year beginning January 1, 2011, shall be as follows:

<u>Westchester County</u>	
Levy	\$21,558,709
Taxable Assessed Value	137,436,174
Taxable Rate per \$1,000 Assessed Value	156.863

<u>Blind Brook Sewer District</u>	
Levy	\$3,059,068
Taxable Assessed Value	141,516,292
Taxable Rate per \$1,000 Assessed Value	21.616

<u>Mamaroneck Valley Sewer District</u>	
Levy	\$544,554
Taxable Assessed Value	18,905,276
Taxable Rate per \$1,000 Assessed Value	28.804

Refuse Disposal District No. 1

Levy	\$2,156,192
Taxable Assessed Value	140,578,168
Taxable Rate per \$1,000 Assessed Value	15.338

And be it further

RESOLVED, that the Council does hereby certify to the City Comptroller the above stated levies and tax rates for Westchester County, Blind Brook Sewer District, Mamaroneck Valley Sewer District and Refuse Disposal District No. 1 charges, and the City Comptroller is hereby directed to apportion and extend against each taxable property listed upon the assessment roll of the City of Rye for 2011 at the rates specified, the amount of taxes required to produce the total sums certified and to render tax notices for, and receive and collect, the several sums computed and determined, and, it is further

RESOLVED, that the tax warrant of Westchester County be signed by the Mayor and directed to the City Comptroller to collect the amount of said taxes with interest as provided by law and any special assessment heretofore authorized and 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.

The next agenda item was heard prior to Agenda Item 10.

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

Sis D'Angelo, 110 Wappanocca Avenue and *Ray Tartaglione* spoke in support of Robert Schubert.

Jim Amico, 350 Midland Avenue, asked what the City would be doing to make City streets safer and asked if the Police Department has been included in discussions about the Greenway Resolution.

16. Miscellaneous Communications and Reports

Councilwoman Keith said that the YMCA was able to get the NYU Capstone Program to donate their time and they will be presenting a traffic analysis on April 28th from 9:30 to 11:00 a.m. at the Library. Ms. Keith also asked the City Manager to prepare a listing of how much the City has spent on pedestrian safety projects for the April 9th joint meeting with the School Board. She also suggested that both the City Council and School Board members sign a Distracted

Driver Pledge against texting and driving. Ms. Keith encouraged the Not-for-Profit organizations in the City to put their events on the community calendar.

Councilman Sack said that he is producing a video for Rye TV tentatively entitled "The Council Project". He is trying to track down and interview all former Council members and Mayors about their experiences on the Council.

Mayor French said that Councilman Filippi will be serving as liaison to the Recreation Committee.

17. Old Business

Councilman Filippi asked if language could be added to the signage near the parking ticket drop off box in City Hall indicating that tickets received after 4:00 p.m. will be processed the next day.

Councilman Sack asked about the status of the old "Black Bass Grill" property. City Manager Pickup said that the owner of the property has until May 1st to pay all the outstanding taxes (approximately \$129,000) on the property in full. If this is not done the City has the option to foreclose and take title to the property.

18. New Business

Mayor French announced that the joint meeting with the Board of Education would be held on April 9th at 9:00 a.m. at City Hall. The Mayor also noted that the economy has put a great deal of pressure on cities and their managers and staff. He offered the support of the City Council for the work of city staff.

19. Adjournment

There being no further business to discuss Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the meeting at 10:41 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk