

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on April 13, 2011 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor
RICHARD FILIPPI
PAULA J. GAMACHE
PETER JOVANOVICH
SUZANNA KEITH
CATHERINE F. PARKER
JOSEPH A. SACK
Councilmembers

ABSENT: None

The Council convened at 7:35 p.m. Councilwoman Gamache made a motion, seconded by Councilman Jovanovich and unanimously carried, to immediately adjourn into Executive Session to discuss personnel matters. Councilman Filippi made a motion, seconded by Councilman Sack 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

The proposals for Playland are available for review in City Hall. Email the Mayor at mayor@ryeny.gov to set up an appointment.

The City is trying to set up a meeting for Rye residents with Westchester Joint Water Works.

4. Draft unapproved minutes of the regular meeting of the City Council held March 30, 2011

Councilwoman Gamache 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 30, 2011, as submitted.

5. Mayor's Management Report

- Hen Island Update

City Manager Pickup reported that he and Corporation Counsel Wilson have met with representatives of the County and Health Department to go over the structure of a complaint that had been received in order to determine the areas that were being reviewed. He provided a status update on four areas that the City is engaged in:

There is one open item with the Kuder Island Association (the Association) for an abandoned structure on the Island. The Building Inspector issued a violation based on code enforcement issues. Corporation Counsel Wilson said the cottage owner/shareholder appeared in City Court and asked for a month to either fix the structure or demolish it and is due back in court in three weeks.

Mosquito Control – There are two issues involved. The City participates in a County larvicide program that puts cakes in catch basins. On Hen Island, the mosquitoes are salt marsh mosquitoes, and the County does not have a program to control that type of mosquito and is not interested in creating one. The City does not intend to aggressively pursue this type of mosquito.

Sanitary Sewers Standards – In 2010 the Building and Property Maintenance Codes were updated. There is new language about sanitation and composting toilets and other products available that are considered compliant with the Code. This information has been shared with the Association and the County in order to set a standard to be pursued on the Island.

Potable Water – This issue is also impacted by the 2010 Code changes. The Corporation Counsel has shared the new language with the County and the County is working with the County Attorney's Office and members of the Health Department regarding the new definition of potable water and how the standards would apply to the County Health Codes.

Ray Tartaglione related a phone conversation he had with Bill Mooney from the County Executive's Office regarding the issues of sanitary connections, potable water and mosquito infestations and offered suggestions as to how problems on Hen Island could be dealt with by connecting with a county trunk line located near the island or drilling wells on the island. He added that Mr. Mooney said if there was a mosquito infestation on Hen Island it would be the responsibility of the Association.

- FOIL Procedures Update

Corporation Counsel Wilson reported on the three changes to the City's FOIL Procedures that were being suggested.

- The appeals process would be changed to have all appeals to FOIL requests handled by the Corporation Counsel as the appeals officer. Currently the City Council hears appeals if they are submitted within ten business days of a City Council meeting and by the Corporation Counsel if not.

- A new Section 9E would be created, which outlines at what point the City can charge the requestor for staff time.
- The wording of the procedures would be updated to comply with current requirements for electronic FOILs contained in the Freedom of Information Law.

A suggestion was made that any payments required in connection with a FOIL request should be paid prior to documents being copied and requests should be required to be specific. It was also suggested that the public could be losing something if the Council no longer decided the appeals.

City Manager Pickup said the updated procedures would come back to the Council for approval at a later date.

- Legal Update

Corporation Counsel Wilson reported on the following matters:

Carroll v. City of Rye – the trial of this tax certiorari matter has been adjourned until May.

Shew v. City of Rye – reply papers were served this week in further support of the City's Motion to Dismiss this lawsuit that is currently pending in Westchester County Supreme Court.

Beaver Swamp Brook – Harrison has commented back to the Administrative Law Judge on the draft permit and has indicated that they have no issues with the conditions imposed on the permit. The City must comment on the draft permit or raise any new issues that the City would like included in its petition, originally filed in 2007, by April 22nd.

Schubert v. City of Rye – A decision was received from Judge Karas in connection with this federal civil rights action dismissing all federal claims with prejudice. The decision did not cover the state law claims against Paul Shew.

6. Presentation on the Rye Meeting House

Anne Stillman of the Committee to Save the Bird Homestead and Walter Sedovic of Walter Sedovic Architects presented an update on the project to renovate the Rye Meeting House. Ms. Stillman said there have been two volunteer work days on the grounds this Spring and many people have also been volunteering their expertise. Mr. Sedovic outlined the work that is planned for the Meeting House that he said would yield a functional site for the City at its conclusion. A public walk through was held with potential bidders and the scope of the work is tailored to the funding available and the required time line. 95% of the issues deal with managing water at the building. Swales will be reincorporated at the base of the building and around the perimeter and the finishing will be one of three choices: a grass that draws moisture from the ground; cobbles; or a geotextile matrix. All of these options will alleviate the issues at the roof level which lead to percolation of water to the interior of the building. The foundation is solid and well constructed, but rubble stone begins to fall apart. Lime grout will be injected back into the foundation to solidify the foundation that is in place. The siding, which currently consists of clapboard and shingles, will not be removed. The paint will be stripped and it will be

repainted. The gutters will be removed and a small drip edge will be added around the parameter of the roof to allow water to fall into the swale. The tower and bell will be restored and repaired. The roof will reflect the original roof which was red cedar wood shingle. A paint analysis is being done to determine what color to use that will accurately reflects a period in the building's history and also require the least amount of maintenance. The project could begin in May and will be completed within the time frame required by the Save America's Treasures Grant.

7. Presentation by City Planner, Christian Miller, on the Locust/Purchase Traffic Signal Project

City Planner Miller gave an overview of the major components of the plan. The traffic signal at Locust Avenue and Purchase Street will be eliminated and replaced with stop signs. Since the eliminated traffic light contained a cobra headlight, three new street lights are proposed that will provide adequate levels of lighting in the evening. Bump outs or curb extensions will be put in on Purchase Street opposite Locust Avenue and at the intersections and also smaller ones on either side on Locust Avenue. The bump outs will keep vehicles from encroaching too closely to the intersections; allow better turning radius for larger vehicles and make the stop signs more visible. Bump outs will also make pedestrians more visible and reduce their crossing distance. There is also an opportunity to add more green space into the downtown with the bump outs. One large tree will be removed and six trees will be planted on Purchase Street. Crosswalks will be painted because staff has not found a product that is both durable and esthetically pleasing to use in the crosswalks. The project is not as expensive as replacing the traffic signal and frees up money to be spent in other areas. There will be a loss of two to four parking spaces depending on if the spaces are striped. However, the striping of parking spaces on Purchase Street is encouraged because it causes an easier flow of traffic. It is expected that the project will be done in August, which is the slowest time of year for businesses, and anticipated to take three to four weeks. The plan has been reviewed by the Traffic and Pedestrian Safety Committee and the Planning Commission and has been presented to the Chamber of Commerce.

City Manager Pickup said there is \$165,000 in the current capital budget for this project. It is anticipated that the bids may come in at about \$100,000. City Planner Miller recommended that the remaining funds be used for the Smith and Elm intersections, which are not part of this project.

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

Darcy Gibson, Kirby Lane North, inquired about the impact that the Kirby Lane South Sewer District will have on the North Kirby Lane Sewer District. Residents of Kirby Lane North are concerned that the new sewer will share the pump station that they are paying for. City Manager Pickup said that upon completion of the project and apportionment, the public improvements became the property of the City of Rye. Because public money as well as private money was expended on the project it is too early to determine how the financial burden might be shared. He said the Corporation Counsel is looking into the question of intervening users and any requirements for financial contributions. He said he is also consulting with the Dolf Rotfeld engineering firm and hoped to be able to report back to the Council in May. Councilman Sack

said he believed it was fair to expect the Kirby Lane South District to contribute some portion of the construction costs to what the Kirby Lane North District has already paid.

9. Resolution to transfer \$25,000 from contingency to the Annual Sewer/Drain Account for the emergency repairs on Wainwright Street

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

WHEREAS, City staff has determined that the amounts required for emergency repairs on pipes on Wainwright Street in fiscal 2011 were not anticipated and were not provided for in the adopted 2011 budget by \$25,000; and

WHEREAS, the General Fund Contingent Account has a balance of \$250,000; now therefore be it

RESOLVED, that the City Comptroller is authorized to transfer \$25,000 from the General Fund Contingent Account to the Annual Sewer/Drain Account.

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.

9A. Joint Resolution of the Rye City School District and the City of Rye regarding a state property tax cap and unfunded mandates

Mayor French said that a tax cap has been adopted by the State Senate and will now be considered by the State Assembly. He said this agenda item came out of the discussions held at the Joint Meeting with the School Board on April 9th and has been adopted by the Board of Education. There was a discussion among the members of the Council regarding the concept of a tax cap and whether it should be imposed only with mandate relief, or, not at all.

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

Be it **RESOLVED** by the Rye City School District Board of Education and the Mayor and Council of the City of Rye, that we recommend the New York State Assembly reject a state property tax cap, unless

concurrent and significant unfunded mandate relief is included in the legislation.

WHEREAS, New York State leads the nation in local property taxes, in large part because New York leads the nation in imposing unfunded state mandates upon local municipalities and school districts;

WHEREAS, by some studies, these unfunded mandates represent as much as 20% of the budgets of municipalities and school districts;

WHEREAS, the projected growth in pension and health insurance costs in 2011 and 2012 will far exceed the growth in property tax levies allowed under a cap, and that by 2014 employee benefit costs alone could consume or even exceed both the school district's and the city's entire permitted property tax levy increase;

WHEREAS, state laws such as the Triborough Amendment further impede the ability of the school district and the city to control costs by carrying forward certain costly prior contractual provisions, undermining the immediacy of conducting fair, realistic negotiations that are responsive to current economic conditions;

WHEREAS, the establishment of a 2% tax cap, as proposed by the Governor and approved in the State Senate, would ultimately require drastic cuts in essential local school district and city programs, services, and staffing that would compromise our residents expectations for quality of life;

THEREFORE, BE IT RESOLVED that the Rye City School District Board of Education and the Mayor and Council of the City of Rye strongly urge that the New York State Assembly reject the property tax cap approved by the State Senate;

BE IT FURTHER RESOLVED that the establishment of any tax cap follow the reformation of current unfunded mandates and the restructuring of public pension benefits and the collective bargaining process in order to ensure that our school district and municipality do not suffer undue and unwanted cuts in services, programs and staffing.

ROLL CALL:

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

The Resolution was adopted by a vote of 5 in favor, 1 against and one abstention.

10. One appointment to the Landmarks Advisory Committee for a three-year term, by the Mayor with Council approval

Councilwoman Parker made a motion, seconded by Councilwoman Gamache and unanimously carried, to appoint Sean Jancski to the Landmarks Advisory Committee for a three-year term expiring on January 1, 2014.

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

Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to appoint William Fegan to the Board of Architectural Review for a three-year term expiring on January 1, 2014.

12. Council designation to the Litigation and Case Management Committee

Mayor French designated Councilman Joseph Sack to serve on the Litigation and Case Management Committee.

13. Miscellaneous Communications and Reports

Councilwoman Keith congratulated the Sustainability Committee on their recent forum. She said the Sustainability team will be working with City Manager Pickup and Golf Club Manager Scott Yandrasevich to do a walk about at the Golf Club on May 5th. The Safe Routes to School Committee will kick off "Walking School Buses" on May 17th. The YMCA will be presenting their Capstone Report with ideas on Forest Avenue on April 28th at the Library.

Mayor French said he felt the City should do some outreach to the community prior to construction beginning on the Central Avenue Bridge.

14. Old Business

Councilman Sack said he believed the City should get the same type of permit that was issued by the Department of Environmental Conservation (DEC) as last year, which would allow for the trapping of coyotes. He said the City should take the position with the DEC that it should not have to wait for something to happen in order to get the permit. City Manager Pickup said the City had requested the same permit, but the DEC chose to issue the harassment permit instead.

In connection to a tax refund approved by the Council at the last meeting and denied by the County, Councilman Filippi asked if there had been any answer to his inquiry about the issuance of a tax credit by the County. Corporation Counsel Wilson said she would follow up with the County.

15. New Business

Councilwoman Gamache said that the State Legislature is considering a proposal to resurrect the commuter tax, which would impose a 1% tax, to be split between the City of New York and the MTA, on earnings in New York City of non-residents. She suggested that the Council should adopt a Resolution opposing it.

Councilwoman Keith asked if the Citizens Finance Committee or Government Relations Committee could look into what is happening in Albany. Mayor French said he believed the Government Relations Committee was already looking into the issue of mandates. Ms. Keith also suggested that the Youth Advisory Committee should be reestablished for next Fall and offered to serve as liaison. Councilwoman Parker said she believed perpetuating the Youth Council required participation by the School District.

16. Adjournment

There being no further business to discuss Councilman Sack made a motion, seconded by Councilman Filippi and unanimously carried, to adjourn the meeting at 10:30 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk