

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on April 27, 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

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 May 11th City Council Meeting will be the annual Square House meeting, which is a community celebration of volunteerism and Rye's History. Prior to the beginning of the meeting Councilman Sack's "Council Project", which includes interviews with former Mayors and Councilmembers, will be aired.

4. Approval of the election of the Chiefs of the Rye Fire Department

Councilman Jovanovich made a motion, seconded by Councilwoman Gamache and unanimously carried, to approve the election of George Hogben as Chief of the Rye Fire Department; Anthony Scarfone as 1st Assistant Chief; and Michael Taylor as 2nd Assistant Chief held at the Annual Fire Department meeting in April.

5. Draft unapproved informal minutes of the Joint Meeting of the City Council and Board of Education held on April 9, 2011 and the minutes of the regular meeting of the City Council held April 13, 2011

Councilwoman Gamache made a motion, seconded by Councilman Jovanovich and unanimously carried, to approve the informal minutes of the Joint Meeting of the City County and Board of Education held on April 9, 2011, as amended.

Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to approve the minutes of the regular meeting of the City Council held on April 12, 2011, as amended.

6. Mayor's Management Report
● Not-for-profit and Tax status Update

Corporation Counsel Wilson said that in light of the 2010 decision in the Osborn case, City Assessor Noreen Whitty had taken a closer look at some properties in the City owned by either not-for-profit entities or governmental agencies that might be leased for non-governmental purposes. The City is taking a closer look at the Wainwright House, the Tiki Bar and Seaside Johnnies Restaurant. Real Property Tax Law Section 406 exempts from taxation property owned by a municipal corporation within its corporate limits if it is held for a public use. The Tiki Bar has a license agreement with the County that contemplates the payment of real property taxes. The license agreement between Seaside Johnnies and the Town of Rye is less specific. Ms. Wilson is working with Ms. Whitty to examine these properties to determine if the arrangements are proper not-for-profit uses for a property tax exemption. Regarding the Wainwright House, a closer look is being taken at the recent Planning Commission Resolution that significantly adjusted the business operation of the Wainwright House. The Assessor has until June 1st, when she files the tax roll, to make a determination about revoking the exemptions.

● Legal Update

Corporation Counsel Wilson reported on the following matters:

- *Mundinger v. Planning Commission* - The Planning Commission was served with an Article 78 Proceeding by a property owner against the Wainwright House and the Planning Commission. The City is named, but has not been served. The primary issues being raised are SEQRA issues related to noise and traffic. A conference is scheduled next week to discuss a briefing schedule.
- *Panetta v. Planning Commission* – This Article 78 proceeding is fully submitted to the Westchester County, Supreme Court. It deals with a wetlands permit pending before the Planning Commission and the Commission's failure to grant a waiver from private roads standards.
- *Shew v. City of Rye* – The City made a motion to dismiss, which was opposed by Plaintiff, who also made a motion to file a late Notice of Claim. The City opposed that motion. The matter is fully submitted.
- *Beaver Swamp Brook* – Comments were submitted to the Administrative Law Judge recommending additional conditions be added to the draft permit and reiterating that the City remains concerned about the flood storage capacity at the site.

Ms. Wilson also discussed a pending F.O.I.L. appeal. Timothy Chittenden is appealing the fact that certain information was redacted from documents provided to him in response to a

F.O.I.L. request. Ms. Wilson said she had reviewed the documents requested and redacted information because of attorney/client privilege. Councilman Sack asked to have more time to review the documents provided by Ms. Wilson and asked if there was a time constraint to decide the appeal. Ms. Wilson said that a decision should be rendered by the Council within 10 business days or by her if not decided by the Council in that time frame. (During the discussion of Agenda Item 15, it was decided that Ms. Wilson would contact the appealing party to determine if he would waive the 10-day requirement in order to have the appeal decided by the Council. If he did not agree, she would render the decision.)

7. Presentation on Changes to the City's Snow Ordinance

City Manager Pickup gave an overview of the changes to the Snow Ordinance proposed by City staff. During this past winter the City took it upon itself to shovel out the areas where there are crossing guards and recommends that the law be changed to require the abutters of any sidewalk next to a marked crosswalk to clear the snow to keep access to the crosswalks open. Staff also looked at requiring that the entire width of the sidewalk must be shoveled in order to be in compliance with the law, but determined that it could not be realistically enforced. Mr. Pickup said that snow removal requirements vary among other municipalities. Mayor French said the recommended change would be referred to the Traffic and Pedestrian Safety Committee for review and comment.

Robert Zahm, 7 Ridgewood Drive, and Jim Amico, 350 Midland Avenue, both expressed their disagreement with the proposed change to the Snow Ordinance.

8. Presentation on Changes to the City's Code

City Manager Pickup said that it is recommended that a city update its Code after 50 changes and the Rye City Code has been changed 174 times since it was last updated. He said that he and Corporation Counsel Wilson believe it is the right time to make a comprehensive change. It is a labor intensive process that will require specific sections of the Code to be reviewed by the Department Heads that work with them in order to make recommendations for changes. General Code will also work with the Corporation Counsel on style updates and structure. General Code will do a large majority of the work, but most of the proof reading and many recommendations will come from staff. A draft will then be brought back to the City Council for review and ultimately for formal adoption. It should be a six to twelve month project and would be split over two budget cycles. Corporation Counsel Wilson said there are internal inconsistencies in the current Code that create problems for enforcement that need to be changed. She said in the long run it will be a benefit to the City because unclear or inconsistent laws can be the breeding ground for litigation.

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

Jim Amico, 350 Midland Avenue, asked about what must be done before the Federal Government will sign off on the Stimulus projects so the City can go forward with a stop sign on Midland Avenue. City Manager Pickup said the hold up had to do with a Federal Highway paperwork audit and was not structural. Mr. Amico also offered thanks to everyone who had come to the memorial vigil for his late son, Jarrid.

10. Authorization for the City Manager to enter into an Intermunicipal Agreement with the Village of Port Chester and Cottage Landings, LLC

Mayor French noted that the 22 units involved in this IMA are part of the Westchester County Consent Decree in the Affordable Housing Settlement. Corporation Counsel Wilson said that the Agreement was similar to one entered into with the Village of Port Chester in 2003 for the first affordable housing units built on Cottage Street. Since the entrance to Cottage Street is through Port Chester, the Agreement addresses each municipality's obligations with respect to services.

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 an Intermunicipal Agreement with the Village of Port Chester and Cottage Landings, LLC to provide services to certain properties located on Cottage Street.

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 an Amendment to the Lease Agreement with Lester's of Rye, LLC

Mayor French said that the City purchased the property at 1037 Boston Post Road in 2006 with the intent of putting it to a public use. In 2010 the Council reversed that decision and planned to put the property back on the tax rolls. In order to allow the Council time to evaluate the best options for the property, the short-term lease with the current tenant will be extended for one year.

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

RESOLVED, that the City Manager is hereby authorized to enter into an Amendment to the Lease Agreement with

Lester's of Rye, LLC for the property located at 1037 Boston Post Road.

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. Resolution authorizing an additional three-month extension of the PILOT Agreement between Avon Capital Corporation and the Westchester County IDA

City Manager Pickup said that the three-month extension is being requested in order to complete the required environmental reviews.

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 authorizes an additional three-month extension of the PILOT Agreement between Avon Capital Corporation and the Westchester County I.D.A.

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. Authorization for City Manager to enter into an Inter-municipal Agreement with the Village of Sleepy Hollow as the lead municipality on a grant program to assist in the carrying out of Phase II Stormwater Implementation Projects

City Manager Pickup said this grant will provide the City with the opportunity to add to the current GIS database and more successfully meet the Phase II Stormwater requirements.

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

RESOLVED, that the City Manager is hereby authorized to enter into an Intermunicipal Agreement with the Village of Sleepy Hollow as the lead municipality, on a grant program to assist in the carrying out of Phase II Stormwater Implementation Projects.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

14. Authorization for City Manager to enter into an Inter-municipal Agreement with Westchester County for the Stop-DWI Patrol/Datamaster Project for the City of Rye Police Departments

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 an Intermunicipal Agreement with Westchester County for the STOP-DWI Patrol/Datamaster Project for the City of Rye Police Department from January 1, 2011 through December 31, 2015.

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. Resolution to amend the City of Rye's FOIL procedures

(See Agenda Item 6 – Legal Update for discussion on FOIL appeal under consideration.)
The Council decided to postpone discussion of amending the FOIL procedures to the next meeting.

16. Resolution updating the terminology for a standard workday for elected and appointed officials as per requested reporting requirements of the New York State and Local Employees' Retirement System

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

BE IT RESOLVED, that the City of Rye hereby establishes the following as standard work days for elected and appointed officials and will report the following days worked to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by these officials to the clerk of this body:

Title	Name	Standard Work Day (Hrs/Day)	Term Begins/Ends	Participates in Employer's Time Keeping System (Y/N)	Days/Month (based on Record of Activities)
Appointed Employees					
City Manager	Scott D. Pickup	7	7/1/10 – 1/1/2014*	Y	N/A
Corporation Counsel	Kristen Wilson	6	1/1/10 – 12/31/10	N	10

* For retirement purposes only.

17. Consideration of referral to the Board of Architectural Review and City Consultant, the Special Permit Application (#TC010) submitted by New Cingular Wireless PCS, LLC ("AT&T") for modifications to its existing wireless telecommunications facility on the roof top of 66 Milton Road

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

RESOLVED, that the Special Permit Application (#TC010) submitted by New Cingular Wireless PCS, LLC ("AT&T") for modifications to its existing wireless telecommunications facility on the rooftop of 66 Milton Road, is hereby referred to the Board of Architectural Review and City Consultant.

18. Consideration of referral to the Board of Architectural Review and City Consultant, the Special Permit Application (#TC013) submitted by New Cingular Wireless PCS, LLC ("AT&T") for modifications to its existing wireless telecommunications facility located at 350 Theodore Fremd Avenue

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

RESOLVED, that the Special Permit Application (#TC013) submitted by New Cingular Wireless PCS, LLC (“AT&T”) for modifications to its existing wireless telecommunications facility located at 350 Theodore Fremd Avenue, is hereby referred to the Board of Architectural Review and City Consultant.

19. Miscellaneous Communications and Reports

Councilwoman Keith reported that representatives of the Sustainability Committee would be meeting with City Manager Pickup and Golf Club Manager Scott Yandrasevich on May 5th to do a walk about at the golf club facility. Ms. Keith added that an “Eye on Rye” program has been done on the sustainability process.

Councilman Jovanovich said the he has received calls from residents about young people skateboarding down Purdy Avenue. City Manager Pickup said that there are other areas in the City where this is also happening and the Youth Officer is looking into the matter.

Mayor French said that the audited figures for Rye Town Park will come in at a \$99,000 shortfall, not the \$142,000 that had been estimated. The budget should be adopted at the Commission’s May meeting. Going forward financial figures should be provided on a monthly basis. The Commission is close to approving the specs on the automated parking project, which will then go out to the market. Installation will not happen until the Fall. Councilwoman Parker suggested that the project should be pushed into 2012 in order to allow the Council to plan for it in the discussions for the City’s 2012 budget.

20. Old Business

Councilwoman Keith asked for an update on the “No Knock Registry”, which was provided by the City Manager and City Clerk.

Councilman Filippi asked if there was an answer yet to his question about a credit on County taxes. Corporation Counsel Wilson said that she would follow up on it. He also asked if the new street lights proposed for Purchase Street would have glass or plastic lenses. City Manager Pickup said it would be a plastic composite because it lasts longer.

Mayor French asked for an update on road conditions after the Winter. City Manager Pickup said that he is compiling a list of the status of patches done by utility companies and will circulate it to the Council when it is complete.

City Manager Pickup passed out an update on coyotes that included a listing of reported sightings for the current year and the list of updated protocols from the Department of Environmental Conservation (DEC). He said the DEC has a comprehensive protocol about how they will respond to issuing trapping and removal permits vs. harassment permits. He said he believes the City is in a good position based on its protocols even though it does not have the trapping permit.

21. New Business

Councilman Filippi asked what municipality would issue permits for work being done at Holy Child School. City Manager Pickup said they would be issued by the Town of Harrison and they would have to follow the same stormwater protocols as any other municipality. Mr. Filippi also inquired if the City could tell residents how much it would cost to replace an entire sidewalk, rather than portions of the sidewalk when they are notified that a sidewalk must be replaced. City Manager Pickup said that the City's sidewalk program is a damage replacement program not an aesthetic program and believed that would be outside the scope of the current program. He said based on issues of liability, he would want to discuss any proposed changes with the Corporation Counsel.

22. Adjournment

There being no further business to discuss Councilman Sack made a motion, seconded by Councilman Jovanovich and unanimously carried, to adjourn the meeting at 10:18 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk