

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on May 25, 2011 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
RICHARD FILIPPI  
PAULA J. GAMACHE  
SUZANNA KEITH  
CATHERINE F. PARKER  
JOSEPH A. SACK (arrived at 8:24 p.m.)  
Councilmembers

ABSENT: PETER JOVANOVIICH, Councilman

The Council convened at 7:10 p.m. Councilwoman Gamache made a motion, seconded by Councilwoman Parker and unanimously carried, to immediately adjourn into Executive Session to discuss litigation. Councilman Filippi made a motion, seconded by Councilwoman Parker and unanimously carried, to adjourn the Executive Session at 8:02 p.m. The regular meeting convened at 8:07 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 Betty McKean, the wife of former Councilman Doug McKean, and Bill Mahoney ("Mr. Bill") a long-time custodian in the schools, and offered the condolences of the Council.

4. Draft unapproved minutes of the regular meeting of the City Council held May 11, 2011

Councilwoman Gamache made a motion, seconded by Councilwoman Keith and unanimously carried, to approve the minutes of the regular meeting of the City Council held on May 11, 2011, as submitted.

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 Kyle Wagman to the Fire Police Patrol Company, as approved at the May meeting of the Fire Wardens.

6. Mayor's Management Report

- Presentation by the Rye Town Park Advisory Committee

Stephanie Spierings and Jeanie Golden said that they have been charged with developing plans and activities that will bring Rye residents back to the park and assist in the marketing of activities. They provided an update on their activities. Last Fall feedback was solicited from users of the park to find out what type of activities they would like to see in the park. Responses indicate that people would like more seasonal family friendly events and activities in the park. Upcoming events planned include "Fridays at 5:00", informal gatherings at the beach where families can gather with other residents. Two of these events are planned for June and two in September. A Fall Pumpkin Festival in October is also being considered.

Bishop Nowatnik and Fred Gioffre from the Town of Rye responded to a question from the audience about how the money coming into the park is being monitored. They said that changes have been implemented over the last three years in order to account for revenues and control expenses. This summer there will be someone counting cars at the entrance to the park and everyone will be given a receipt for payment. There are also cameras in each booth that are supervised by the Director of Security.

- Presentation by a representative of Kuder Island Colony, Inc.

Ira Goldenberg, Esq., General Counsel to the Kuder Island Colony, the owners of Hen Island, said that his clients are concerned with the issues the City and County are worried about on Hen Island and intend to do the right thing. The Colony's Board is expected to make a decision at their next meeting, which will then be sent to the shareholders for a vote. The Board has been meeting with representatives of the City and the County and he believes the action the Board will take will be appropriate and the City will be comfortable with the solutions proposed. Mayor French asked Mr. Goldenberg to come back to the next Council meeting to report on the Board's proposal. City Manager Pickup said that the complaint documents regarding Hen Island have been shared with both Mr. Goldenberg and the County Health Department. He said the Kuder Island Colony has been cooperative and he feels that things are moving in a positive direction.

Jordan Glass, Esq., representing HealtheHarbor, read a letter from a Hen Island shareholder, Claudio Iodice, in support of Ray Tartaglione's efforts. In addition, Mr. Glass

responded to questions that had been posed to Mr. Tartaglione at the previous Council meeting. He suggested that improved communication with Mr. Tartaglione could have prevented recent activities with the “Floatiemobile”. Councilwoman Parker said she believes there has been communication with Mr. Tartaglione because he regularly attends City Council meetings. She suggested it would be helpful if a representative from the County Board of Health came to a Council meeting. City Manager Pickup said it was unlikely that a Board of Health representative would attend a Council meeting, which was the reason the City had been dealing through the County Executive’s Office. Ray Tartaglione disagreed with Ms. Parker, saying that he does not receive answers to questions he asks about meetings that take place with the County. Charles Pateman said that he was willing to mediate the issues regarding Hen Island and suggested that a study be done with the County to find viable solutions to remedy the problems on the island.

- Presentation of the City of Rye Stormwater Management Program 2010 Annual Report

Assistant City Engineer Christopher Tallarini presented the Annual Phase II Stormwater Compliance Report. Since 2003 the City has operated its stormwater system under an MS4 permit. The City is required to meet or exceed minimum measures set forth by the New York State Department of Environmental Conservation (DEC). They include:

Public Education and Outreach – A stormwater U-Tube channel was set up that is sent out to targeted audiences, such as consultants who work in the field of erosion control and designing stormwater facilities, as well as to residents who help the City find any illicit discharges or non-compliant construction sites. A viewing schedule was also sent up on RTV for educational programs. There is also a stormwater section on the City website.

Illicit Discharge Detection and Elimination – In 2009 the EPA audited all of the City’s 110 outfalls. There were no indications of illicit discharge found. In 2010 the program continued. One-third of the outfalls were inspected and the cycle will be finished this year.

Construction Stormwater Run Off and Erosion Control – This measure only applies to projects with a land disturbance greater than one acre. A Stormwater Pollution Prevention Plan must be submitted to the City along with a report that governs post-construction procedures related to erosion control and stormwater management. Applicants are required to install, maintain and inspect erosion control measures. Property owners are required to inspect erosion control measures weekly and the City is required to inspect the site as well to verify that the information supplied is accurate. A second part of this measure is stormwater control, which is generally done with a combination of retention or detention systems.

Post Construction Best Management Practices - The current requirement is to inventory and inspect all Best Management Practices of structural drainage systems installed in relation to the Stormwater Pollution Prevention Plan. There may be legislation that will require any stormwater facilities constructed prior to the City having a Municipal Stormwater Permit to be inspected. The City has already started to inventory all locations of previous installations and include them on the City’s GIS mapping.

Good Housekeeping – This measure involves support from the Public Works Department and includes catch basin cleaning and street sweeping. Maintaining the cleanliness of the streets

has an impact on the reduction of pollutants. The City is required to report the amount of sweeping that is done. Cleaning and inspection of catch basins is done in the Spring and Fall.

The City reports to the DEC every year. There was one audit in March 2008 and the feedback received was almost 100% positive with only a few items of additional information requested. No violations were issued.

There was a suggestion made that it might be time to revisit the report made by the Stormwater Management Committee several years ago.

- Legal Update

Corporation Counsel Wilson reported on the following matters:

- *Carroll v. The Assessor* – The trial in this tax certiorari matter started about two weeks ago and has been continued. There will be at least another two days of the trial in early June.
- *Schubert v. City of Rye* -- A compliance conference will be held on June 8<sup>th</sup> with the Court of Appeals for the Second Circuit. Lou Corsi, Esq., the attorney representing the City, will attend. A briefing schedule should be discussed.

7. Public Hearing to establish the 2012 Budgeted Fees and Charges

City Comptroller Jean Gribbins said that last year the Council decided to review fees and charges prior to the budget review and hold a separate public hearing to adopt the fees and charges prior to staff preparation and presentation of the budget. This will allow determination of the charges by reviewing the current economic conditions rather than as a mechanism to balance the budget.

Prior to opening the public hearing there was a discussion among the Council regarding several of the proposed fees and the rationale used by departments to justify the suggested fee increases as well as the decision not to raise a fee. City Manager Pickup said that staff must balance out the impact of fees on City residents. A suggestion was made to include information regarding the average fee charges in other communities in Westchester. Mr. Pickup said he would work with Ms. Gribbins on the Council's feedback prior to the June 15<sup>th</sup> meeting.

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

*Robert Zahm* said there are three reasons for changing fees: public safety, cost of recovery for services, and raising revenue and said it was important that the Council understand the reason for raising a fee. He specifically mentioned the fees charged to the School District for false alarms and suggested that an agreement be worked out between the City and the School District. He also said that the proposed fee increases for repairing sidewalks is inconsistent with the recommendation that will come from the Shared Roadways Committee and suggested that it will discourage people from maintaining their sidewalks.

Councilwoman Gamache made a motion, seconded by Councilwoman Parker and unanimously carried to keep the public hearing open until the next meeting.

Agenda Item 8 was taken out of order prior to Agenda Item 7.

8. Public Hearing to amend Local Law Chapter 76, "Dogs", Section 76-5, "Running at large prohibited" and Section 76-6, "When Leash Required", to establish regulations for the leashing of dogs at Rye Town Park

Mayor French said that the Rye Town Park Commission wants to set an off-leash dog policy for the park, which will require a Code change by the City.

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

Members of the public commenting included: *Suki Van Dijk; Bruce Stevens; Lucy Flynn; John Linder and Anne McCarthy*. They all spoke in favor of the proposal to allow dogs to be off their leashes at certain times of the day during certain months of the year. It was also suggested that the number of hours that dogs can be off their leashes should be increased by an hour; that it should be permitted all year, not just during the summer months; and that dogs should be allowed to use the entire park. Mayor French said that the policy and time frame came from the Rye Town Park Commission and suggested that interested parties should attend the Commission's next meeting and offer their suggested changes.

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

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

There was no one wishing to speak under this agenda item.

10. Consideration to set a Public Hearing for June 15, 2011 to amend Local Law Chapter 167, Section 167-9, "Procedures for street openings", subsection D, "Fees", to remove the setting of fees from the Local Law

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

**WHEREAS**, the Council wishes to amend Chapter 167, "Streets and Sidewalks" of the Code of the City of Rye by amending Sections 167-9 "Procedures for street openings" Subsection D "Fees" to remove the fees from the law and change the permit issuing department; 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 June 15, 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 167, "Streets and Sidewalks" of the Code of the City of Rye by amending Section 167-9 "Procedures for street openings", Subsection D "Fees" to remove the fees from the law and change the permit issuing department.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 15th day of June, 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 167, "Streets and Sidewalks" of the Code of the City of Rye by amending Section 167-9 "Procedures for street openings", subsection D "Fees".

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

Dawn F. Nodarse  
City Clerk  
Dated: May 26, 2011

11. Consideration to set a Public Hearing for July 13, 2011 on modifications to Special Permit Applications submitted by New Cingular Wireless PCS, LLC ("AT&T"): #TC010 for an existing wireless telecommunications facility on the roof top of 66 Milton Road

and #TC013 for an existing wireless telecommunications facility at 350 Theodore Fremd Avenue

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

**WHEREAS**, applications for special use permits to modify existing wireless telecommunications facilities located at 66 Milton Road (TC010) and 350 Theodore Fremd Avenue (TC013) have heretofore been introduced at this meeting and placed before the Mayor and each Councilman; and

**WHEREAS**, it is now desired to call a public hearing on such proposed applications, 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 July 13, 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 application.

Section 2. Such notice of public hearing shall be in substantially the following form:

**CITY OF RYE  
Public Notice**

**Notice of Public Hearing for approval for special use permit applications (TC010 & TC013) by New Cingular Wireless PCS, LLC (“AT&T”) for modifications to its existing wireless telecommunications facilities located at 66 Milton Road and 350 Theodore Fremd Ave.**

PLEASE TAKE NOTICE that, pursuant to Chapter 196 of the Code of the City of Rye (Wireless Telecommunications), the Rye City Council has scheduled a public hearing for Wednesday evening 8:00 P.M., July 13, 2011 in the Council Room of the Rye City Hall on the following matter:

New Cingular Wireless PCS, LLC (“AT&T”) has applied for approval for special permits for the purpose of modifying its existing telecommunications facilities located at 66 Milton Road and 350 Theodore Fremd Ave. These properties known on the Rye City Tax Map as Sheet 146.11, Block 1, Lot 73, (RA-3 Apartments District) and Sheet 146.0, Block 1, Lot 62.2 (B1 District)

All information pertaining to this matter is available at the City Clerk's Office in Rye City Hall. Any person interested or affected will be given an opportunity to be heard.

Dawn F. Nodarse  
City Clerk  
May 26, 2011

Agenda Item 12 was taken out of order prior to Agenda Item 9.

12. Consideration to set Public Hearings for August 10, 2011 regarding a request by Avon to amend Local Law Chapter 90, Section 90-10, "Rear or side line fences in business districts" to allow for a fence height of six feet, and Chapter 197, Section 197-86, "Zoning Table B", to clarify the minimum lot size

Seth Mandelbaum, Esq., representing Avon Corporation, said that Avon is preparing to renovate its facility and has an application pending before the Planning Commission. They have determined that an amendment is necessary regarding fence height restrictions within 35' of a street line in a B-5 Interchange Office Business District as well as an amendment to the zoning code to increase the minimum lot size for office buildings in the B-5 District. They request the public hearing be set for August 10<sup>th</sup> to allow time for the Planning Commission and County Planning Board to review the proposal and comment.

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

WHEREAS, the City Council has received a petition from Avon, Inc. to amend the fence height restrictions in the B-5 Interchange Office Building District, and

WHEREAS, the City Council believes that this amendment would be beneficial to the City; 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 August 10, 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 90,  
Section 90-10 "Rear or side line fences" of the Code of the City of Rye to  
permit six foot high fences in the front yard setback of properties in the B-5  
Interchange Office Building District.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 10<sup>th</sup> day of August 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 the proposed amendment to Chapter 90, Section 90-10 "Rear or side line fences in business districts" to allow for a fence height of six feet.

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

Dawn F. Nodarse  
City Clerk  
Dated: May 26, 2011

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

WHEREAS, the City Council has received a petition from Avon, Inc. to amend the Zoning Table to reduce the minimum lot size in the B-5 District from four to three acres, and

WHEREAS, the City Council believes that this amendment would be beneficial to the City; 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 August 10, 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 197, Section 197-86 "Zoning Table B" of the Code of the City of Rye to reduce the minimum lot size in the B-5 District from four to three acres.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 10<sup>th</sup> day of August 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 the proposed amendment to Chapter 197, Section 197-86 "Zoning Table B" to reduce the minimum lot size in the B-5 District from four to three acres.

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

Dawn F. Nodarse  
City Clerk  
Dated: May 26, 2011

Councilwoman Keith made a motion, seconded by Councilman Filippi and unanimously carried, that the City Council declares its intention to be Lead Agency under SEQRA in connection with the proposed local laws.

13. Authorization for City Manager to enter into an Agreement with the County of Westchester for 2011-2012 Prisoner Transportation Services  
Roll Call

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 Prisoner Transportation Agreement with Westchester County for the period of January 1, 2011 through December 31, 2012.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

14. Appointment of Christian K. Miller, AICP, City Planner to the Watershed Advisory Board to represent the City of Rye

Councilwoman Gamache made a motion, seconded by Councilman Filippi and unanimously carried, to appoint Christian K. Miller, AICP, to the Watershed Advisory Board to represent the City of Rye.

15. One appointment to the Rye Cable and Communications Committee for a three-year term expiring on January 1, 2014, by the Mayor with Council approval

Councilwoman Gamache made a motion, seconded by Councilman Filippi and unanimously carried, to appoint Lisa Tidball to the Rye Cable and Communications Committee, as a non-voting member, for a three-year term expiring on January 1, 2014.

16. Designation of the Chairman of the Rye Cable and Communications Committee by the Mayor

Mayor French designated Stephen Fairchild to serve as the Chair of the Rye Cable and Communications Committee

17. Miscellaneous Communications and Reports

Councilwoman Keith said that the Shared Roadways Committee would be presenting recommendations at the June 15<sup>th</sup> meeting. She added that representatives of the Sustainability Committee toured Whitby Castle and will be looking at City Hall and also looking at baseline measurements from ICLEI on how to evaluate public buildings.

Councilwoman Parker offered the thanks of the Chamber of Commerce for the new larger Memorial Day flags that have been put up in town by DPW.

City Manager Pickup said he would get a written update from the County Health Department regarding the issues on Hen Island.

18. Old Business

Councilwoman Keith said that the Shared Roadways Committee is looking to apply for a grant in order to go forward with further steps to introduce a Complete Streets Policy.

19. New Business

Councilwoman Gamache suggested that Councilmembers should review the draft minutes they receive before a meeting and email the City Clerk with any proposed changes prior to the meeting.

20. Adjournment

There being no further business to discuss Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn the meeting at 11:09 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk