

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on August 10, 2011 at 8:00 P.M.

PRESENT:

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

ABSENT: RICHARD FILIPPI, Councilman

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 application to NYU Capstone in connection with a complete streets planning project has been approved.
- The commuter tax did not advance in the State legislature for 2011 but it may be considered in 2012.
- The traffic improvements to the downtown are taking place this week.

4. Draft unapproved minutes of the regular meeting of the City Council held July 13, 2011

Councilwoman Gamache made a motion, seconded by Councilwoman Keith and carried by a 5-0 vote, to approve the minutes of the regular meeting of the City Council held on July 13, 2011. Councilman Sack recused himself because he had not attended the meeting.

5. Mayor's Management Report

- Summary Report from Rye Town Park Supervisor

Mayor French said that since 1907 when the Rye Town Park Commission was established by the State legislature, the City (then Village) of Rye and Town of Rye have worked

together in operating the park. Rye residents pay 39.2% of capital improvements to the park and 48% of any operating loss, but have 100% of the neighborhood impact. Rye Town Supervisor Joe Carvin began by giving an overview of the communities that comprise the Town of Rye and outlined what the Town does. He said the purpose of his presentation on the park was to discuss the future of Rye Town Park and how the two municipalities can work together to insure the quality operation of the park and its infrastructure in coming years. He noted that a study is being done to determine if the Town of Rye government should be eliminated, which would affect the governance of the park. The Rye Town Park Commission consists of six people – two from Rye City, two from Rye Town, and the Mayors of Port Chester and Rye Brook. He said that budgeting for the park is like budgeting for a seasonal business. He outlined changes in park operation that have been instituted in the last four years involving staffing, cash management, renovation projects; parking; resident and non-resident fee structures; and park security. He offered thanks for input from the City Finance Committee, Friends of Rye Town Park, Parking Committee and Rye Town Park Advisory Committee. He said they are trying to increase resident usage of the park and want to work with the stakeholder groups to improve their park experience and get better programs in the park. This year they are focusing on getting all the revenues but must work on managing expenses better. Looking to the future of the park, Mr. Carvin said the Park Commission has to consider such things as year round vs. seasonal use; automated parking and how to fund \$14 Million in capital projects. They are looking into getting grant money and have hired the person who obtained the \$400,000 grant previously received for the park. He suggested creating a committee to seek proposals for park use similar to the one created by the County regarding Playland.

- September 11th Ceremony Agenda

Mayor French said the City's remembrance of September 11th would involve three things: remembering the families of Rye citizens who were lost; honoring the first responders and treating the day as a community service day. City Manager Pickup said the specifics of the day are developing, but it may include a gathering in the Fire House after the last of the ceremonies.

- Legal update

Corporation Counsel Wilson provided an update on the Beaver Swamp Administrative matter. Two weeks ago the City received a Supplementary Rulings Decision from the Administrative Law Judge (ALJ). It upheld the Department of Environmental Conservation's (DEC) negative declaration issued in March 2011 and authorized all parties to appeal any issues already determined in the May 2009 ruling. Ms. Wilson has asked for an extension of the August 15th deadline to respond.

6. Presentation of the 2012-2016 Capital Improvements Program

City Planner Christian Miller presented the Capital Improvements Program, which is the City's plan for identified capital projects or acquisitions for the next five years. It identifies needs and prioritizes projects, and identifies preliminary costs and potential sources of funding. During budget season the Council will decide if projects should be funded and, if so, how. There are approximately 50 projects identified with a projected cost of \$40 million over a five year

period with \$12.6 million for flood mitigation projects; \$17 million for transportation projects; \$5.6 million for recreation projects; \$1.0 million for drainage projects; \$2.8 million for building projects; \$1.0 million for sewer projects and \$4.2 million for vehicles and equipment (\$7.7 million in 2012; \$4.4 million in 2013; \$16.8 million in 2014; \$7.0 million in 2015 and \$4.2 million in 2016). The three funding categories are debt, general revenues, and grants and aid. The largest funding source is projected to be grants and aid of various sources, followed by general revenue funded from the general budget and finally debt. In the current economic situation, only projects identified as high priority were funded for the next two years. Many 2012 projects are carry over projects from previous years. Staff have deferred projects to the maximum time possible. The recommendations of the Shared Roadways Committee are also reflected in this year's CIP including the Boston Post Road retaining wall, the MTA parking lot, the Theodore Fremd/Purdy/Purchase intersection in the Central Business District (CBD), repaving sections of Forest Avenue, and prioritizing the annual paving and sidewalk program. Additional projects suggested have been deferred. Some projects have been removed from the CIP because the projects have been completed; some projects were removed because a condition was resolved and the project is no longer necessary; and some have been removed because the costs associated with fixing a problem have been deemed unreasonable.

High priority projects were highlighted in the following areas:

Sewer improvements

- The Locust Avenue Sewer Siphon replacement is the highest priority in the CIP.
- The Hewlett Avenue Pump Station is a carry-over project. There is an EPA grant that requires a local match.

Building improvements

- A study should be done to evaluate what measures can be taken to renovate the existing Police/Court facility.
- The HVAC system in City Hall needs to be replaced

Central Business District

- Designs for the Theodore Fremd/Purdy/Purchase intersection improvement; Smith/Elm intersection improvement and potential reconstruction of Purchase Street should be funded.

Recreation improvements

- The Recreation Department is looking at enhancements to increase playability for the user groups, such as turfing Recreation Park and Disbrow Park and rehabilitating Nursery Field for better drainage. The Thruway turf project is not longer considered a viable project.

Vehicles and Equipment

- Vehicle needs have been pushed down the line as far as possible but the City must consider that the sanitation fleet must be replaced in 2016.

Mr. Miller said that the City's capital needs are increasing even though City funds for capital projects are decreasing. The City must also consider that there are other entities such as the Golf Club, Boat Basin, Rye Town Park and School District that can impact the City's capital budget. Over time, dependence on grants and aid may become more challenging. The City may have to examine how it uses debt or identify other sources of funding in order to implement the CIP. Mr. Miller said the City could look at public/private partnerships, but must carefully examine the trade offs that may be involved. The City cannot continue to defer capital projects because it is not sustainable. The City must fund its Capital Improvement Plan if it wants to have a Capital Improvement Program.

A suggestion was made to work with the County to receive funding for the Purchase/Purdy/Theodore Fremd intersection, but it was noted that if the County made improvements it would probably turn over ownership and responsibility to the City. A request was made that the Council be provided with a short list of projects that can no longer be deferred as well as projects where money should be spent in order to save money over time. It was also suggested that the Council take a "field trip" to learn more about proposed projects.

7. Public Hearing 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. appeared on behalf of Avon. The Planning Commission has conditionally approved a site plan for the renovation of the Avon facility at 601 Midland Avenue. Avon is seeking two amendments to the Rye City Code, one regarding fence height in the B-5 Zone and the other to change the minimum lot size in the B-5 zone from four acres to three acres. The Planning Commission and Westchester County Planning Board have indicated they do not object to the changes.

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

The only member of the public who commented was *Jim Amico*, who asked for clarification on the location of the fence in question due to site line concerns.

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

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

RESOLVED, that the City Council as lead agency, hereby issues a negative declaration under SEQRA and adopts the following local laws:

**A Local Law Amending Chapter 90 “Fences and Walls”
of the City of Rye Code by amending Chapter 90-10
“Rear or side line fences in B-5 Business Districts.”**

Be it enacted by the Rye City Council as follows:

Section 1.

§ 90-10. “Fences in business districts”

In all business districts, no fence or freestanding wall which exceeds six feet in height may be erected along a rear or side division line or anywhere on the lot within 35 feet of such line (measured by the shortest distance to such line); except that, if the lot abuts a street, the height of a fence or wall located within 35 feet of the line abutting a street may not exceed four feet; and, if the lot adjoins a lot within a residence district, the height may not exceed the height that would be allowed on the adjoining lot. The foregoing notwithstanding, in the B-5 Interchange Office Building Districts only, a fence or freestanding wall not to exceed six feet in height may be erected within 35 feet of the line abutting a street.

Section 2. Severability

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

Section 3.

This local law shall take effect immediately upon filing in the Office of the Secretary of State.

**CITY OF RYE
LOCAL LAW NO. 5 2011**

**A Local Law Amending Chapter 197 “Zoning,”
of the City of Rye Code by amending Table B:
B-5 Business Districts Area, Yard, Height and
Miscellaneous Regulations of Chapter 197**

Be it enacted by the Rye City Council as follows:

Section 1.

Table B: Business Districts Area, Yard, Height and Miscellaneous Regulations of Chapter 197 of the City of Rye Code is hereby amended by replacing the 4 acre minimum lot area in Column 5

for office buildings in the B-5 District with a 3 acre minimum lot area requirement. All other provisions of Column 5 of Table B, including note references shall remain the same.

Section 2. Severability

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

Section 3.

This local law shall take effect immediately upon filing in the Office of the Secretary of State.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote

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

Councilman Jovanovich made a motion, seconded by Councilwoman Gamache, 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. until December 31, 2011.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

9. Public Hearing regarding a change to the zoning district designation of the 1051, 1037, and 1031 Boston Post Road properties from the B-1 Neighborhood Business District to

the B-2 Central Business District and Change the parking district designation of 1031 Boston Post Road from the “C” to the “A” Parking District

City Planner Miller noted that the City Council had designated itself lead agency under SEQRA in June. The draft local law was referred to the Westchester County Department of Planning as required by law and additionally to the City Planning Commission, although not required by law. Comments have been received from both Boards. A full Environmental Assessment Form has also been completed and made available to the public.

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

The only member of the public who commented on the proposed local law was *Mitchell Palais, 70 Grace Church Street*. He said that the proposed changes could allow for 60 units of housing to be placed on the location. He said he believed a facility that large could have an impact on already over-crowded schools as well as the overall tax base of the City. He also expressed concern about the public hearing being held in August when many residents are on vacation. City Planner Miller pointed out that any proposed use for the property would require planning review and the City Council can set perimeters in the terms of a sale.

The Council discussed holding the public hearing open until the September meeting in order to allow for more public comment.

Councilman Jovanovich made a motion, seconded by Councilwoman Gamache and unanimously carried, to hold the public hearing open until the September meeting.

Agenda Item 11 was taken out of order.

10. Discussion on the City of Rye No Distracted Driving Pledge for Traffic and Pedestrian Safety

Councilwoman Keith said that the idea of doing a community pledge on distracted driving and walking came up after the Distracted Driving and Walking event held in April. The pledge is based upon the Oprah Winfrey “No phone zone pledge”. She said the pledge asks people not to text while driving and to be alert while working around City streets and crosswalks. She said she wanted to know the thoughts of the Council. Suggested changes will be made and the revised pledge will be circulated in a packet for the next meeting.

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

Jim Amico, 350 Midland Avenue, inquired about his request to have a stop sign put up on Midland Avenue near Palisade Road. City Manager Pickup said that since changes have been made to the intersection in the last five years, it requires professional input and recommendations before a decision can be made.

Charmain Neary, 393 Midland Avenue, said there is more housing going up in her neighborhood and she is concerned that more and more parking will be taken away. She added that there are many accidents in the area and she has difficulty getting out of her driveway due to site line issues.

Jordan Glass, Esq., representing HealtheHarbor, read a letter from engineer James Carnicelli regarding public health and safety issues on Hen Island, which recommends a municipal land line connection from the mainland to Hen Island for sanitary waste and potable water.

Ray Tartaglione referred to a *Journal News* article on West Nile Virus in Westchester and said the City was not protecting its residents. City Manager Pickup said that the County runs the mosquito control process in Westchester.

12. Authorization for City Manager to enter into Intermunicipal Agreement with the County of Westchester Department of Transportation for Provision of Bus Shelters

Councilman Jovanovich 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 County of Westchester Department of Transportation for the Provision of Bus Shelters for a five-year term commencing on April 1, 2011 and expiring on March 31, 2016.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

13. Authorization for transfer of \$15,600 from RCTV fund balance to RCTV budget for Engineering Consultants

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

RESOLVED, that the City Comptroller is hereby authorized to transfer \$15,600 from the RCTV fund balance to the RCTV budget for Engineering Consultants.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

14. Adoption of the 2011/2012 tax levy and tax rate for the Rye Neck Union Free School District
Roll Call.

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

WHEREAS, the Rye Neck Union Free School District (District) has certified to the City of Rye Comptroller taxes in the amount of \$9,854,570 to be raised on property within the District located in the City of Rye, with the established tax rates of \$696.644313 per \$1,000 of taxable assessed value on homestead property and \$878.851489 per \$1,000 taxable assessed value on non-homestead property, for the fiscal year beginning July 1, 2011 and ending June 30, 2012, now, therefore, be it

RESOLVED, that in accordance with the provisions of the City Charter, the City Comptroller is commanded to levy and collect said taxes, subject to any further amendments or approvals required by the Rye Neck Union Free School District.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

14A. Resolution to declare certain equipment and vehicles as surplus

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

WHEREAS, The City has been provided with a list of City equipment and vehicles identified as being obsolete or will become obsolete during 2011, and

WHEREAS, these Departments have recommended that said equipment and vehicles be declared surplus, now, therefore, be it

RESOLVED, that said equipment and vehicles are declared surplus, and, be it further

RESOLVED, that authorization is given to the City Comptroller to sell or dispose of said equipment and vehicles in a manner that will serve in the best interests of the City.

1996 Ford Pickup F150, Vin #1FTEF14N4TLB18619, Mileage 74,383 (Rye Golf Club)
1995 Tymo 4700, Vin #1HTSCABN1SH634178, Mileage 50, 868 (DPW)
1999 Ford Crown Vic. Vin #2FAFP1W9XX185748, Mileage 60,105 (Police Dept.)
2007 Ford Crown Vic. Vin #2FAHP71W77X114301, Mileage 74,617 (Police Dept.)
2008 Ford Crown Vic. Vin #2FAHP71W77X114301, Mileage 68,963 (Police Dept.)
2009 Ford Crown Vic. Vin #2FAFP71VX9X103870, Mileage 71,356 (Police Dept.)
1999 Cadillac Deville, Vin #1G6KF5493XU795211, Mileage 133,466 (Police Dept.)
2002 GEM (electric), Vin #5ASAJ27462F021226 (Police Dept.)
Miscellaneous: radio equipment, Gas Detectors, pagers and chargers (Fire Dept.)

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

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

Mayor French made a motion, seconded by Councilwoman Gamache and unanimously carried, to appoint Suzy Allman and Paula Amsterdam Fung to the Rye Cable and Communications Committee for three-year terms expiring on January 1, 2014.

16. Consideration of request for permission to close a section of Purchase Street for the 59th annual celebration of the Halloween Window Painting Contest

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

RESOLVED, the City Council hereby approves the request of the Recreation Department for permission to close a section of Purchase Street for the 59th Annual Halloween Window Painting

Contest on Sunday October 23, 2011 (rain date October 30) from 8:00 A.M. to 3:00 P.M.

17. Miscellaneous Communications and Reports

Councilwoman Keith said that the Shared Roadways Committee was scheduled to make a presentation at the September meeting but asked if there might be conflicts for some people due to “back to school nights”. City Manager Pickup suggested that since there are timing issues it is better not to postpone the presentation. Ms. Keith also reported that the Sustainability Committee had a table out at the Sidewalk Sales and spoke to the public about the work they are doing. She added that there will be a movie shown at the library in September called “Gasland” about fracking.

Mayor French reported that the County Playland Committee is finalizing their draft report.

18. Old Business

City Manager Pickup reported that the Kuder Island Colony shareholders approved Resolutions to incorporate new composting toilets and water coverings for all water collection systems. They are working with the City Building Department and the County to implement the process. He believes it is a positive step forward in answer to a complaint the City received.

Councilwoman Keith asked for an update on the Planet Pizza site and the new development at the Black Bass Grill property City Manager Pickup said there is a site plan application before the Planning Commission for the Black Bass site. The Planet Pizza site has been approved and is in the last stages of finishing out their building permit.

19. New Business

Councilman Sack asked Corporation Counsel Wilson to look into setting up a process for civil action to be taken against scofflaws who ignore violations brought against them in City Court.

Councilwoman Gamache asked if a category could be added for Nixel alerts to let residents know about disturbances on streets caused by work being done by utility companies. Ms. Gamache also asked if the Council meeting packets could be delivered to the Council members homes again.

20. Adjournment

There being no further business to discuss Councilman Jovanovich made a motion, seconded by Councilwoman Gamache and unanimously carried, to adjourn the meeting at 11:49 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk