

APPROVED MINUTES of the Regular Meeting/Workshop of the City Council of the City of Rye held in City Hall on September 14, 2011 at 7:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor
RICHARD FILIPPI (Arrived at 7:16 p.m.)
PAULA J. GAMACHE
PETER JOVANOVIK
SUZANNA KEITH
CATHERINE F. PARKER
JOSEPH A. SACK
Councilmembers

ABSENT: None

Mayor French began the meeting noting the great sadness in the City due to the sudden death of Building Inspector Vinny Tamburro. He said Vinny was a dedicated and principled individual who made the City a better place and said his last words to Vinny had been “keep up the good work.” The Mayor added that a common trait mentioned by people who spoke at his funeral was that Vinny was a family man and said everyone’s hearts go out to his wife Karen and their four children. The Mayor then asked everyone to rise and join in a moment of silence.

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.

Storm Workshop

Mayor French began the Workshop portion of the meeting by commending City employees for great work in getting the City back on its feet after the storms and the sudden loss of Building Inspector Vinny Tamburro.

City Manager Pickup provided a summary on the areas of (1) storm preparedness; (2) storm response; (3) disaster relief; and (4) rebuilding.

Storm Preparedness

The City started preliminary work 72 hours before the storm. Catch basins were cleaned, Police, Fire and Department of Public Works equipment was prepositioned; reverse 911 calls and Nixle alerts were sent (45,000 calls were sent to residents and businesses between August 25th and September 2nd) and evacuation warnings were issued. The City did not issue mandatory evacuations, but provided information to allow individuals to make their own choice on whether or not to evacuate. The Emergency Operations Center was opened on Saturday night.

Storm Response

The predicted storm surge levels and sustained wind speeds never reached the levels that were initially predicted. The storm surge was four to five feet and the winds were periodic gusts but never maintained at a gale force. However, the City received a significant amount of rain that created flooding conditions. The City increased the monitoring of the dam to measure the amount of water behind the dam. Heavy bands of rain began about 3:00 a.m. and by 4:30 a.m. the community was under water. The City was able to maintain people in the field during the entire period of the storm. Rescues were made of motorists trapped in cars and people in lower level apartments of Highland Hall and Laurel Street and Orchard Avenue. Due to the amount of water and the speed at which it was traveling, the swift water rescue equipment had difficulty getting through the current. Boats with a greater capacity engine were borrowed from the American Yacht Club in order to make some of the rescues. About 3:00 p.m. on Sunday the wind picked up and there were about 40-45 reports of trees down with wires in trees over the next two hours. This created a second wave of problem conditions for some neighborhoods that initially had not lost power as Con Ed began turning off power due to dangerous conditions. People who had been able to utilize pumps began to experience flooding. The Fire Department was dispatched to Highland Hall in connection with a report of a strong odor of gas or diesel. It was discovered that areas in the basement that contained spilled heating oil were being pumped out. The pumping was stopped and attempts were made to stop additional flooding into streets and storm drains. The Office of Emergency Management and the Health Department were called and they took over the scene from 5:00 p.m. on Sunday. A mandatory evacuation order was posted on Monday. By 8:00 a.m. on Monday, Con Ed had teams in the City to do electrical and gas inspections and a municipal liaison to help with tree removal work. Beginning Monday morning crews were out doing initial assessments of homes to see if water levels had damaged the gas lines or electrical panel equipment. Con Ed turned off the power to homes whose equipment had been under water during the storm. The effect of Tropical Storm Lee had not been expected, but the City received an extended period of heavy rain that caused more tidal influenced flooding. Between September 3rd and 8th the City sent out another 6,274 email messages and 4,059 text messages.

Recovery

There is a Presidential Disaster Declaration but at this point no formal State Declaration for Westchester County. The FEMA kick off meeting with public assistance teams will be held next week and inspectors will be assigned who will be taken out in the field and shown the public damages. The State CEDAR teams of building inspectors have been in the field and have inspected about 200 structures. The damage numbers are down from the last storm, seeming to indicate that previous actions taken such as raising homes and utilities have helped.

Rebuild

The NYS Department of State has done additional research into the model ordinance, which was adopted by the City in 2007 in order to keep people eligible for the National Flood Insurance Program. Calls have been made to the floodplain administrators in Albany to express concern and ask for assistance. The State has reviewed the model ordinance and will be providing the City with an update, so the City can give people clear guidance as to how they can go about the rebuilding process. The City is encouraging people to raise their homes and the process is being coordinated by City Planner Christian Miller. The City will waive building permit fees as it did in 2007. The City Assessor is not able to provide tax relief at this point because the taxable status date and grievance date have passed. Tax relief may be sought for 2013 from the taxable status date of May 2012.

Members of the public also commented about the recent storm. They included: *Peter Sinnott, Nelson Sales, Carolina Johnson, Holly Kennedy, Bernard Althoff, Kay Beha, Eric Moy, Orly and Sis D'Angelo, Richard Azer, Mitch Schafner, Vickie Edmund, Cedric Raine, Ann Goldsmith, Jim Donovan, Matt Fahey, Jim Amico, Ken McComb, Ted Carroll and Patricia Sales.* Their comments and suggestions included:

- Flooding measures recommended in 1976 by Dolf Rotfeld have yet to be implemented.
- A public/private approach is needed to secure the money necessary to fix flooding, which should be a regional approach.
- A 4' x 10' high plastic interlocking fence should be installed to control the flow of water to stop the brook from overflowing.
- The Rye Flood Action Committee has been working with the City since the 2007 floods.
- Raising homes is not a solution. It doesn't stop flooding.
- The City staff and emergency responders did a great job in preparing for the storm and rescuing people and cleaning up the debris.
- Flooding is a community-wide problem that affects everyone in Rye.
- After the sluice gate is installed, a soil survey should be done regarding enlarging the upper pond to store more water; and a group should be formed to explore building a retaining basin on the SUNY campus north of Anderson Hill Road.
- Landscapers are dumping into the brook.
- Two weeks after the flood, there is still debris in the brook. Rye should be cleaned up.
- Rye can't solve flooding – it must be done by the Federal Government. A 1972 government study suggested building walls along the brook but no one wanted it.
- Flooding is manageable. Maintain the dam. Identify the little things that can be done such as turning impervious surface back to grass in order to show FEMA that the City is serious about flooding.
- Indian Village flooding is man-made due to the engineering of I-95. They get more water than nature intended.
- Ask volunteers to pick up debris from the brook.
- Downstream flow of the brook must be improved. Don't rebuild the Central Avenue Bridge. Buy the Black Bass Grill property to use for flood control.
- The YMCA renovations add to the flooding problem. They should be forced to remove the blacktop and build a levy or put in a culvert to divert the water.

- There was no flooding near Beaver Swamp prior to Harrison's actions.
- Create a volunteer effort to help people prepare for storms and be the eyes and ears for the first responders.
- There should have been mandatory evacuations.
- Flooding must remain a top priority. The City should put money into getting the top flood mitigation people. People would be willing to contribute.
- Rye is not a priority of the State. Rye shouldn't pay taxes until the State gives Rye respect.
- Homeowners can do things to protect themselves.

County Legislator Judy Myers said that the City should look to the County to reinstate the Flood Action Task Force. She said that Rye was one of the few municipalities that got money from that Task Force. She added that a regional approach to flooding is the best.

City Manager Pickup said that the sluice gate is in the last stages of approvals and could be operational in four to six months. He added that the FEMA grant is still pending for the upper pond study and there has been discussion with engineers about doing a smaller scale soil/rock analysis and testing to determine what types of toxins might be in the dredge material. Mayor French noted that discussions have been held with the President of SUNY Purchase within the last year. Mr. Pickup also said that since the model ordinance was adopted in September 2007 in order to allow people to participate in the National Flood Insurance Program, the City has been using it to get people to raise structures and elevate utilities in the floodplain. The dam is inspected every two years by the State and does not fail. He added that cleaning up the brook requires special permits from the Department of Environmental Conservation (DEC).

Members of the Council offered the following comments:

- The DEC does not like dredging. The only way to get flood control projects like increasing the upper pond and building a retaining basin at SUNY Purchase done is to get the support of the Governor to make state-wide flood mitigation a priority.
- The City should more scrupulously enforce its wetland and buffer laws.
- Communities must come together to work on flooding projects to benefit the entire watershed.
- Notifications to residents should indicate street names, not neighborhood names such as "Indian Village."
- The City must focus on upper pond flooding projects.
- Things in government take longer. People should contact Nita Lowey's office to get federal funding in order to get the projects done.
- A system should be worked out for mandatory evacuations.
- The City should look into the legality of below flood level apartments.
- The Council does care about flooding and wants to keep the discussion alive and follow up on the suggestions made.

Mayor French said everyone has a job to do and the City will start to point them in the right direction. The Council will compare notes and come back to the community with a list of the feedback received at this meeting.

The workshop portion of the meeting ended at 9:28 p.m. and the regular meeting began. Agenda items 6, 7 and 10 were taken out of order.

3. General Announcements

- The City has received the funds from the Save America's Treasures Grant for work on the Friends Meeting House.
- The Department of Transportation has rescinded the mandate to replace street signs.

4. Draft unapproved minutes of the regular meeting of the City Council held August 10, 2011

Councilwoman Keith made a motion, seconded by Councilwoman Gamache and unanimously carried, to approved the minutes of the August 10, 2011 City Council meeting, as submitted.

5. Mayor's Management Report

- Sustainability Committee Update on potential environmental and energy saving projects for the City (This item was postponed to the next meeting.)

- Legal Update

Corporation Counsel Wilson reported on the following matters:

- *Shew v. City of Rye* – A Notice of Appeal has been received in this matter. Our insurance carrier has been notified.
- *Bassett v. City of Rye* – The City's Motion to Set Aside the Jury Verdict in this matter has been granted and plaintiff's motion for attorney's fees has been dismissed.

6. Continuation of 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

Mayor French said that his recommendation to the Council is to close the public hearing, not take action on the proposed local law, and sell the building under its current zoning.

Several members of the public commented on the proposed local law. They included: *School Board President Laura Slack; Scott Berringer, Nancy Pasquale, Ann McCarthy, Bill*

O'Connor, Mitch Palais, John Mayo-Smith, Jim Amico, Library Director Kitty Little, and Priscilla Young. Their comments included:

- The School Board is concerned about the Planning Commission recommendation that would allow the creation of 60 units of housing. School enrollment is higher than it has ever been. The schools could not absorb children coming out of a 60-unit housing development and the taxes generated would not cover the cost of educating the students.
- The idea should never have been considered by the Council.
- There should have been a sign put up on the property noticing the public hearing.
- The Planning Commission should have discussed their proposal with the School Board.
- What can be done to prevent the County Executive from using this suggestion as a way to put more low income housing into Westchester?
- There was not enough notice to the public about the proposals.
- Tax the two and one-half story buildings that are really being used as three story buildings accordingly.
- This issue has been discussed at several meetings.
- The Council should not just close the public hearing - it should vote on the proposal.
- The Library is concerned that whatever is done with the property will impact the services of the library.
- The “secretive” process is what is objected to – not affordable housing or mixed uses for properties.

City Planner Christian Miller explained the process utilized in changing zoning and land use regulations. It is the practice in Rye to refer proposed zoning changes to the Planning Commission. The Planning Commission was asked by the Council to consider if it was appropriate to change the zoning of the properties on the 1037 and 1031 Boston Post Road side of City Hall to make it the same as the properties on the other side of City Hall. He said that in answer to this question the Planning Commission put forth a variety of scenarios, only one of which was for multi-family housing. The Planning Commission did not approve anything. It only put forth suggestions for the City Council to consider.

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

Councilwoman Gamache made a motion, seconded by Councilman Filippi to adopt the proposed local law to change 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.

ROLL CALL:

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

The proposed local law was defeated by a 7-0 vote.

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

Jonathan Kraut, Preston Street, spoke about Agenda Item #10. He said he had recently learned that there may not be a line-of-duty death benefit for members of the City's Administrative Pay Group (APG). He urged the City to adopt a policy that would offer health benefits for the survivors of employees in this group in light of the recent death of City Building Inspector Vinny Tamburro. He said he did not suggest that the benefit should be a lifetime benefit, but one that would last until the surviving spouse reached Medicare age and surviving children reached the age of emancipation. He said it was both the moral and the right thing to do and added that in the last 50 years there has been no other line-of-duty death of a member of the APG group. He asked the Council to discuss the matter in Executive Session and make a decision at this meeting. *Jim Amico, Peter Lane and Tony Piscionere* all offered support for the proposal. *Bob Byrne* asked what action the Council was considering taking. City Manager Pickup said that the Council will consider how a modification might be made to extend current retirement benefits to survivors in a situation where there was a line-of-duty death.

Jim Amico, 350 Midland Avenue, spoke about the construction project on Purchase Street and said there should have been better communication with the merchants before the street was closed down on a Saturday morning and said construction equipment should not be left in the street.

Councilwoman Keith made a motion, seconded by Councilman Filippi and unanimously carried to adjourn into Executive Session at 10:57 p.m. to discuss a personnel matter related to Agenda Item 10.

Councilwoman Keith made a motion, seconded by Councilman Sack and unanimously carried, to adjourn the Executive Session at 11:30 p.m. The regular meeting reconvened at 11:32 p.m. The Council then discussed Agenda Item 10.

8. Authorization for Harris Beach PLLC to commence an action challenging the Negative Declaration issued by the DEC in the Beaver Swamp Brook Administrative proceeding
Roll Call.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the firm of Harris Beach PLLC to commence an action challenging the Negative Declaration issued by the Department of Environmental Conservation (DEC) in the Beaver Swamp

Brook Administrative proceeding at the rate of \$215.00 per hour.

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.

9. Authorization for Joseph A. Maria, P.C. to defend the City of Rye in the Article 78 Petition *Runes v. Board of Assessment Review and City Assessor*
Roll Call.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the firm of Joseph A. Maria, P.C. to defend the City of Rye in the Article 78 Proceeding *Runes v. Board of Assessment Review and City Assessor* at the rate of \$215.00 per hour.

ROLL CALL:

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

The motion was adopted by a 7-0 vote.

This Agenda Item was discussed out of order after the Council came out of Executive Session.

10. Authorization for City Manager to make a benefit update to the Administrative Professionals Group (APG) policy

Corporation Counsel Wilson said the Council cannot take action this evening because it does not have the specific language of the policy change before it, but the Council can authorize the City Manager to clarify the language in the APG policy and vote on the change at the September 28th meeting. The effective date would be retroactive to August 1, 2011.

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

RESOLVED, that the City Manager is hereby authorized to clarify the APG policy by extending the line-of-duty death benefits to the spouse and dependents of the employee until such age that the spouse is eligible for Medicare and the children are emancipated.

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 City Manager to enter into an Intermunicipal Agreement with the County of Westchester for an Employee Assistance Program

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 the County of Westchester for an Employee Assistance Program, for a term expiring on December 31, 2014.

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. Authorization for transfer of \$38,296 from RCTV fund balance to RCTV budget for the purchase of a digital productions switcher
Roll Call.

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

RESOLVED, that the City Comptroller is hereby authorized to transfer \$38,296 from RCTV Fund Balance to RCTV Budget for the purchase of a digital productions switcher.

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. Bid Award for City Hall Digital Production switcher and monitor (Bid # 3-11)
Roll Call.

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

RESOLVED, that Bid # 3-11 is hereby awarded to HB Communications for the amount of \$38,296.00.

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. Authorization of a date change for the regular City Council Meeting from November 7, 2011 to November 9, 2011

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to change the date for the City Council meeting originally scheduled for November 7, 2011 to November 9, 2011.

15. Three appointments to the Boat Basin Commission, by the Council, for two-year terms expiring January 1, 2014 and the designation of one member to the Boat Basin Nominating Committee

Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to approve the appointments of Andrew Bodnar, George DeFilippo and Robert Rispoli to

the Boat Basin Commission for two year-terms expiring on January 1, 2014 and Ford Winters to the 2012 Boat Basin Nominating Committee for a one-year term expiring January 1, 2013.

16. One appointment to the Finance 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 approved to appoint John Monaghan to the Finance Committee for a three-year term expiring on January 1, 2014.

17. One appointment to the Rye Town Park Advisory Committee for a two-year term expiring on January 1, 2013, by the Mayor with Council approval

Mayor French made a motion, seconded by Councilman Filippi and unanimously carried to appoint Jason L. Mehler to the Rye Town Park Advisory Committee for a two-year term expiring on January 1, 2013.

18. One appointment to the Rye Playland Advisory Committee to fill out a term expiring on January 1, 2013, by the Mayor with Council approval

Councilwoman Parker made a motion, seconded by Councilman Filippi and unanimously carried, to appoint Garrick Gelinis to the Rye Playland Advisory Committee to fill out a term expiring on January 1, 2013.

19. Consideration of request by the Recreation Department to hold their annual Turkey Run on Thanksgiving Weekend

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

RESOLVED, that the City Council hereby approves the request of the Recreation Department to hold their annual Turkey Run on Saturday, November 26, 2011.

20. Miscellaneous Communications and Reports

Councilwoman Keith said that Governor Cuomo has signed into law the Complete Streets Law. She added that there are no unfunded mandates associated with the law. The Complete Streets team and the Sustainability Committee will be reporting to the Council at future meetings.

21. Old Business

With respect to the proposed change to the zoning law discussed earlier in the meeting, Councilman Sack said that the City and School Board should be held to the same standard that is required of everyone else in connection with land use changes on their properties. If signs are put up on these properties, it will let people know that something important will be discussed relating to the property. Mayor French and Councilman Jovanovich concurred with the suggestion. Corporation Counsel Wilson said any change would have to be done by local law.

Councilman Jovanovich said that the Council should support the Boards and Commissions that deal with the wetland and wetlands buffer laws in adhering to the law.

Councilman Filippi said that the report from the Water Runoff Committee should be brought back so the issues could be readdressed by the Council.

Councilwoman Gamache asked about the status of the Milton Harbor House drain project. City Manager Pickup said the project is designed and is being discussed with attorneys for Harbor House. The final design may come back to the Council this Fall and then go out to bid.

Councilwoman Keith asked about the Playland Bridge project. City Manager Pickup said that the County sent a notice in late August saying the project was going to be put out to bid. Representatives of the City have met with the County to discuss the City's concerns regarding the continuation of the sidewalk as well as issues related to detours during the project. Ms. Keith also asked if there should be a policy discussion with the community about issues relating to people living in basement apartments in Highland Hall. City Manager Pickup said building codes do not restrict habitable spaces within a floodplain and any change would impact more than those living in Highland Hall. She asked the City Manager to research what other communities do. Ms. Keith also asked for an update on the Black Bass property. City Manager Pickup said there is an action in Rye City Court. Corporation Counsel Wilson said that the owners have filed for a demolition permit but she is not sure if it has been filed yet.

Councilman Filippi asked when the Tree Ordinance would be discussed. City Manager Pickup said it would be on the agenda for the meeting on September 28th.

22. New Business

City Manager Pickup reported that it was the City's turn to hold the Municipal Officials Association meeting in October. It will be held on October 13th at Whitby Castle.

Councilwoman Keith asked if there could be an update on the sluice gate at the next meeting. She also asked how the City could proceed with a reduced soil study for the upper pond. City Manager Pickup said that the Council would have to authorize a transfer from Contingency because there is no money appropriated for this project.

Councilman Sack asked if the Council wanted to reconsider going forward with replacing the Central Avenue Bridge. City Manager Pickup said he would forward the engineering study that the previous Council used when making the decision to go forward with the project.

Councilwoman Keith said that the Traffic Safety Pledge would be postponed while people deal with other priorities.

23. 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 12:16 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk