

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on October 19, 2011 at 8:00 P.M.

PRESENT:

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

ABSENT: None

The Council convened at 7:32 p.m. Councilwoman Gamache made a motion, seconded by Councilman Jovanovich and unanimously carried, to immediately adjourn into executive session to discuss real estate matters. Councilman Sack arrived at 7:50 p.m. Councilwoman Gamache 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 8:08 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. Moment of Silence and Remembrance for former Mayor Mary Ann Ilse

Mayor French said that the City had lost a special person on October 7th when former Mayor Mary Ann Ilse passed away. He asked everyone to rise and join in a moment of silence. The Mayor noted that Mrs. Ilse was the only woman to serve as Mayor in the City's history and noted several accomplishments of her term of office. Former Mayor Steve Otis, State Assemblyman, and former Councilman, George Latimer, former Councilwoman Beth Griffin Matthews and Councilman Joe Sack also shared memories recalling her sense of humor, practicality, political courage and integrity.

4. General Announcements

- The City does not object to the proposed School Bond project. The City and School Board have met to discuss concerns that the City has regarding stormwater runoff and

traffic and pedestrian safety and the project will now go back to the School Board for a vote.

- The brook clean up was great, but the Central Avenue Bridge site needs to be cleaned up.
- An NYU Wagner Capstone project will study the issue of the Complete Streets Policy passed by New York State.

5. Draft unapproved minutes of the special meeting of the City Council held September 28, 2011 and the workshop/regular meeting of the City Council held October 5, 2011

Councilman Jovanovich made a motion, seconded by Councilwoman Gamache and unanimously carried, to approve the minutes of the special meeting of the City Council held on September 28, 2011.

Councilwoman Gamache made a motion, seconded by Councilman Jovanovich and unanimously carried, to approve the minutes of the workshop/regular meeting of the City Council held on October 5, 2011.

6. Mayor's Management Report

- Update on the Rye Historical Walking Tour

Laura Brett of the Rye Historical Society updated the Council on the Rye Historical Walking Tour project, which will be a permanent walking and driving tour through Rye. The signs have been sent to the graphic designer and they are beginning to schedule when they can be put up. The signs will be installed at 22 locations throughout the City and will be a combination of historic photos and text about each location. There will be pamphlets available at the Square House containing a master map. Ms. Brett thanked the Council, City staff, the Landmarks Committee and the Board of Architectural Review for their support and assistance.

- Financial Update on 3rd Quarter results

City Comptroller Jean Gribbins provided an update on City finances as of September 30th. 2011 revenues are in line with 2010 revenues. There is an increase in revenue for parking and building permits of about \$363,000. Interest income is about \$26,000 below last year. Sales and mortgage tax revenues are in line with the budget. However, since 2007 the City has seen a decrease in interest income of over \$800,000; in sale tax revenue of \$250,000; and in mortgage tax revenue of \$875,000 meaning that the City has absorbed revenue losses of almost \$2 Million over the past four years. Year to date expenses are in line with 2010 expenses, with some exceptions including the budgeted \$1.3 Million tax certiorari expense for the Osborn settlement which was paid during the year, and an increase in salaries and wages that reflects an additional pay period from the same time last year. The City has used \$210,000 of the \$300,000 budgeted for Contingency. The year-to-date financial statements reflect the costs incurred as a result of Hurricane Irene and Tropical Storm Lee. There should be some indication of the City's financial exposure for these storms in the fourth quarter. Ms. Gribbins said she was cautiously optimistic that 2011 results will be in line with the 2011 budget.

- Legal Update

Corporation Counsel Wilson reported on the following matters:

- 2 Central Avenue (Black Bass Grill property) – The contractor’s report came back indicating that there is asbestos in the building. The owner is contracting with an outfit to remove it. They must provide weekly updates regarding their progress. When the asbestos removal process is completed, a demolition permit can be issued by the City.
- Beaver Swamp Brook – The Department of Environmental Conservation (DEC) staff filed an opposition brief to the City’s appeal of the Negative Declaration issued by the DEC. The Town of Harrison has not submitted any opposition papers. The matter is now fully submitted.
- *Panetta v. The Planning Commission* – The City won in the lower court in this Article 78 proceeding. The Petitioner has appealed the decision to the Appellate Division, Second Department.

Agenda Items 11 and 8 was taken out of order.

7. Discussion of amending City of Rye Local Law Chapter 53, “Architectural Review” to reduce the number of applications subject to architectural review

City Manager Pickup said the City was looking at the issue of reducing the workload of the Board of Architectural Review (BAR) by exempting such things as windows and doors, so that the intent of the BAR is maintained but the number of applications that come before it decline. The consensus of the Council was to go forward. City Manager Pickup said he would work with Corporation Counsel Wilson on specific language that will be circulated to the BAR for comment prior to coming back to the Council to set a public hearing.

8. Follow-up discussion of Rye Town Park policy on dogs and the City of Rye Local Law Chapter 76, “Dogs”

Mayor French said that the policy, the practice and the law regarding dogs on leashes in Rye Town Park were not consistent. The Rye Town Park Commission (the Commission) has voted to reverse their previous policy of allowing dogs to be off leash prior to 9:00 a.m. Councilman Sack said that there may be an opportunity to go back to the Commission to get them to revisit the decision but, if this does not happen, he suggests that the City should amend its law to allow the former practice of letting dogs be off leash in the park prior to 9:00 a.m. Corporation Counsel Wilson said that the law requiring dogs to be on leash is consistent with laws throughout the State. The Commission was created by State legislation which gives the Commission the authority to maintain and run the park but not the authority to enforce the policies. The City is the enforcement arm of the Commission. If the City passed a law contrary to Commission Policy it would not work in conjunction with what the State intended, and the City cannot override state law. Ms. Wilson added that if the City Council wants a change in the way the Commission is established, or operating currently, the options are to approach the Commission itself or the State to change the legislation. Mayor French suggested creating a

User Group Registry for dog owners that would allow participants to come to the park at a certain time and be part of an activity that allows dogs to be off leash. He added that the Recreation Commission has been asked to look at potential sites for other options.

There was also a brief discussion among members of the Council regarding other issues of concern in connection with the operation of the park, such as the early closing of the beach. It was noted that the Commission will be meeting next week and that there will be community forum held in the future where people can express their concerns.

There was public comment, both for and against the idea of reinstating the no leash before 9:00 a.m. policy. *Suki VanDijk, John Linden, David Jenkins, Dawn Wilson, Nina McGinty, Howard Lagsler and Laura Brett* spoke in favor of the City amending its law, saying the previous policy worked well and that problems have been created by aggressive Park Security. The suggestion of creating a User Group for dog owners was endorsed. A petition urging the City Council to amend its law to permit dogs to be off leash in the park prior to 9:00 a.m. was presented. *David Rasmussen*, of the Friends of Rye Town Park, read a letter on behalf of the President of the organization urging the Council to uphold its current leash law.

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

Holly Kennedy and Carolina Johnson asked for an update on the Village of Rye Brook permitting process regarding the Sluice Gate project as well as an update on what is happening on amending the study on the upper pond soil sample. Mayor French said that the site plan for the Sluice Gate will go before the Rye Brook Planning Board on November 8th and back to the Village Board for approval on November 22nd. City Manager Pickup said that the Planning Board has asked for some minor adjustments to the site plan that the City is working on. Regarding the upper pond study, Mr. Pickup said that the City has been told by FEMA and SEMO personnel that December 2nd is the date when a decision may be made on the City's pending grant application for funds to do the study. If no decision is forthcoming on that date the City may have to look for additional sources of money to fund a study on a reduced scale. He added that unless the Council goes out for emergency bonding, there is no money in the budget to even do a limited scope study on the upper pond. Ms. Kennedy and Ms. Johnson urged the Council to ask the engineering company what information a re-scoped \$50,000 study would include. City Manager Pickup pointed out that the City is looking at three locations up stream as additional detention sites. Ms. Kennedy also suggested that a flood update should be included on Council agendas. Mayor French suggested that a volunteer Chief Information Officer would be helpful to get correct information out to the community and possibly a permanent Flood Board.

Jordan Glass, Esq., representing HealtheHarbor.com, spoke about work that he said was done without permits on a property located at 13 Richard Place, which he said created safety hazards for the occupants and the community. *Ray Tartaglione*, a Hen Island shareholder, provided copies of a News Release from HealtheHarbor.com regarding a house owned by Mayor French at 13 Richard Place. He said the Mayor was issued a summons in July 2011 for building without a permit. Corporation Counsel Wilson said a complaint was logged into the Building Department but a violation or summons was not issued by the Building Department. Mayor

French said that the City Manager, not the Mayor, was the chief enforcement and administrative officer of the City. Mr. Tartaglione asked the Mayor to resign.

10. Consideration of referral to the Board of Architectural Review the Special Permit Application submitted by United Water Westchester, Inc. for the installation of towers and telecommunications equipment to collect billing information

City Manager Pickup said that as part of the agreement reached with United Water, the company was required to attempt to eliminate much of the unmetered water they were losing. This will require an enhanced and updated system for meter reading. The proposed structures are tall and the City wants them to be reviewed by the Board of Architectural Review prior to coming back to the Council for approval of a special use permit. Members of the Council expressed concern about additional equipment being located in the City's right-of-ways.

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

RESOLVED, that the Special Permit Application submitted by United Water Westchester, Inc. for the installation of towers and telecommunications equipment to collect billing information, is hereby referred to the Board of Architectural Review.

11. Consideration to set a Public Hearing to add a proposed Local Law to prohibit the use of plastic bags by Rye Merchants

Mayor French said that the Sustainability Committee has talked to local merchants and to residents regarding the proposal to ban the use of plastic bags by merchants. Sara Goddard, representing the Committee, said that the list of merchants supporting the proposal is up to 71 signatures and asked if the FAQ sheet she submitted could be put on the City website.

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

WHEREAS, the Council wishes to add Chapter 154, "Retail Checkout Bags" to the Code of the City of Rye; 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 November 16, 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 add Chapter 154, “Retail Checkout Bags” to the Code of the City of Rye.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 16th day of November, 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 add Chapter 154, “Retail Checkout Bags” to the Code of the City of Rye.

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

Dawn F. Nodarse
City Clerk
Dated: November 4, 2011

12. Authorization for the City Manager to enter into an Intermunicipal Agreement with the County of Westchester for the distribution of Homeland Security funded equipment

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 County of Westchester for the distribution of Homeland Security funded equipment.

ROLL CALL:

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

The Resolution was adopted by 6-0 vote.

13. Three appointments to the Rye Golf Club Commission by the Council for three-year terms expiring January 1, 2015, one appointment for a one-year term expiring January 1, 2013, and the designation of one member to the Rye Golf Club Nominating Committee

Councilwoman Gamache made a motion, seconded by Councilman Filippi and unanimously carried, to approve the appointment of Charley Davies, Patricia Geoghegan and T.J. Hanson to the Rye Golf Club Commission for three-year terms expiring on January 1, 2015.

Councilwoman Gamache made a motion, seconded by Councilman Filippi and unanimously carried, to approve the appointment of Chris O'Brien to the Rye Golf Club Commission for a one-year term expiring on January 1, 2013.

Councilwoman Gamache made a motion, seconded by Councilman Filippi and unanimously carried to appoint Jim Codispoti to the 2012 Rye Golf Club Nominating Committee.

There was also a brief discussion among the Council regarding voting procedures for Golf Commission elections.

14. Miscellaneous Communications and Reports

Councilwoman Keith noted that the YMCA had been pivotal in obtaining the Capstone grant to study the Complete Streets Policy.

15. Old Business

Councilwoman Keith asked for an update on the stop sign pilot for Midland Avenue and Palisade Road. City Manager Pickup said the City was working with representatives of the County, who have expressed some concerns with the pilot program. Ms. Keith also asked how long the orange bollards around town would be up. City Manager Pickup said the ones on Theodore Fremd Avenue would be in place until the road is fixed.

16. New Business

Councilman Jovanovich said he had drafted a Resolution stating that flooding is a high priority for the City's departments, Commissions and public and private property owners that he forwarded to City Planner Christian Miller for review. He said he would now forward it to the Council for comment with the idea of possible adoption at a future Council meeting. Councilwoman Parker suggested the Council have a liaison position dedicated to flooding.

Mayor French said the Government Relations Committee wants to do a presentation on the topic of prevailing wages.

Mayor French referred to the allegations made by Ray Tartaglione earlier in the meeting and reiterated that no violation has been issued to him in connection with the property he owns at 13 Richard Place.

17. 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 10:56 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk