

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on November 2, 2011 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor
RICHARD FILIPPI
PETER JOVANOVICH
SUZANNA KEITH
CATHERINE F. PARKER
JOSEPH A. SACK
Councilmembers

ABSENT: PAULA J. GAMACHE, Councilwoman

The Council convened at 7:43 p.m. Councilman Filippi made a motion, seconded by Councilman Jovanovich and unanimously carried, to immediately adjourn into executive session to discuss personnel matters. Councilwoman Parker arrived at 7:47 p.m. and Councilman Sack arrived at 8:01 p.m. Councilman Filippi made a motion, seconded by Councilman Jovanovich and unanimously carried, to adjourn the executive session at 8:17 p.m. The regular meeting convened at 8:21 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

- Police Officer Mike Kenny will be honored by the Lions Club.
- Resident Peter Sinnott has offered to contribute mulch to protect the roots of trees along the parking lot at Highland Avenue. (The City hopes this donation can count as a contribution toward the City's local share for the flooding in August.)
- Assemblyman Latimer will reach out to Con Edison to set up a meeting regarding concerns over power outages at Blind Brook Lodge during the snow storm over the weekend. Residents should be notified when the meeting is set up.
- The City should consider free parking in the downtown during Christmas week.

4. Draft unapproved minutes of the regular meeting of the City Council held October 19, 2011

Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to approve the minutes of the regular meeting of the City Council held on October 19, 2011, as submitted.

5. Mayor's Management Report

- Finalize 2012 Budget Schedule and Topics

City Manager Pickup presented a list of dates and topics for upcoming budget meetings:

11/9	Presentation of Manager's Budget and Tax Cap Analysis
11/14	EMS and Library Budget review
11/16	Police Department Budget Review
11/21	Budget workshop if necessary
11/30	Discussion of debt and revenues and review of Council budget questions
12/7	Public hearing on budget
12/14	Budget workshop if necessary
12/21	Budget Adoption

There was a discussion among the Council about adding presentations by the Enterprise Funds, the Fire Department and on health care costs. There was also a request to move the Police Presentation to November 21st if possible. City Manager Pickup said he would review the calendar based on Council suggestions.

- Update from the Government Policy and Research Committee on Prevailing Wage Standards

This presentation was deferred to a later date

- Legal Update

Corporation Counsel Wilson reported on the following:

- 2 Central Avenue (Black Bass Grill property) – The owners have submitted an application to the Zoning Board seeking variances for the property. They are also working on retaining a contractor to do the asbestos removal work. (A suggestion was made that the City should notify the neighbors of the property when the asbestos work would be done. Resident Jim Amico said that neighbors should be notified wherever a building is demolished that might contain asbestos and the City should make sure the contractors follow proper procedures.)
- *Munding v. Planning Commission* – Judge Colangelo rendered a decision in the City's favor in connection with an Article 78 proceeding brought by a resident challenging a decision made by the Planning Commission regarding semi-permanent tents utilized by Wainwright House during the summer season.
- *Highland Tenants Association v. R.A. Cohen, et al* – The City was served with a law suit this week that also includes the County and the State concerning an oil spill that occurred at The Highlands apartment building after Hurricane Irene. There is an Order to Show Cause served with a return date of November 9th. The City's insurance carrier has not yet issued a coverage determination and may not do so by the return date for the Order to

Show Cause. Ms. Wilson put forth a Resolution for the City to retain the firm of Harris Beach to represent the City's interests in the interim while the coverage decision is awaited. If there is coverage, the carrier will reimburse the City for any costs incurred prior to the determination being made.

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 retains the firm of Harris Beach, at the rate of \$215 per hour, to represent the City's interests in connection with the matter *Highland Tenants Association v. City of Rye, et al.*

ROLL CALL:

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

The Resolution was adopted by 6-0 vote.

City Manager Pickup also updated the Council on the recent storm and the stop sign on Purchase Street at Locust Avenue.

Mr. Pickup said that the stop sign on Purchase Street at Locust Avenue will be moved slightly in order to accommodate the size of the tree. This will be done after the lights are installed.

In connection with the snow storm the previous weekend, Mr. Pickup said trucks were out salting and plowing the streets and that there was more of an impact on trees and wires than during Hurricane Irene. He added that it was disappointing that Con Edison did not assign a municipal liaison to the City until Tuesday and did not coordinate a response with municipal crews until this morning. He said the City had called Con Edison asking for liaisons as early as Saturday evening. Mr. Pickup added that he would be meeting for the first time the next day with a Public Assistance person from FEMA in connection with the August Hurricane.

6. Discussion of amending the City of Rye Charter for the creation of a Public Safety Commissioner with the Fire Department reporting directly to the City Manager

City Manager Pickup said that as a result of the Recession Task Force, the Council has indicated that they want the City to look at opportunities for flattening the organization where possible. An item that will be proposed in the 2012 budget is the issue of Article XIII in the City Charter which establishes the Board of Wardens with the administrative responsibility for the operation of the Fire Department, with the City Manager in an advisory position to the Board. The Council might want to make a decision to change that relationship and have both the paid

and volunteer departments report to the City Manager in order to deal with the issues of inter-operability of training and communications and administration and oversight of the Department. The proposal was discussed with the Board of Wardens in June. Since there is a retirement coming up in the full-time staff that will necessitate other changes in the Department, it may be time to move the proposal forward. A study was done in 2004 by an outside consulting group that offered a range of proposals. This change was proposed and had not been implemented but gives the Council an option for further efficiencies in the public safety department going forward. The City will have to look at structural and operational changes in order to maximize public safety dollars and keep delivering the services that Rye residents expect. The Wardens were asked for their input over the summer and input is also sought from members of the Department as well as the volunteers. Another recommendation would be to consider the creation of a Public Safety Commissioner position. Mr. Pickup said that if the City cannot find internal efficiencies in the Fire Department, the next step would be to start looking outside the City

It was suggested that the operational impacts of these proposals should be included in the budget discussion. A question was raised that the proposed change might not be able to be made by Council action and would require a referendum. The City Manager was asked to re-circulate the 2004 report.

7. Discussion of the “Development and Planning Standards” Intermunicipal Agreement Compliance for the Flood Mitigation Project at the Blind Brook Dam

City Manager Pickup said that when the City applied to the County for funding for the Sluice Gate, the standards in questions were in draft form and have since been formally adopted by the County. Adoption of the standards is part of the IMA that provides the \$1.1 million in funding from the County. The Council is being asked to refer the proposed standards to the City’s Boards and Commissions that have land use oversight for their comments. It will then come back to the Council in order to incorporate the proposed standards into the City’s existing land use standards in order to be in compliance with the terms of the IMA. Changes would be made by local law through the public hearing process. The City will also have to incorporate the standards when it renews its Hazard Mitigation Plan.

A request was made that the Corporation Counsel inquire if the County had coordinated the document so it is not contradictory with State and Federal legislation. The City Manager was asked to schedule another presentation on the Sluice Gate.

8. Discussion of a draft Resolution regarding flooding including preventative measures and flood consequences

Mayor French said the Council wants to pass a resolution that asks the City’s Boards and Commissions and residents to have greater sensitivity and scrutiny around flood-related projects and also creates a permanent Flood Action Committee, with Council liaison, to advise the Council. There was a discussion among the Council about the importance of educating the

public as well as the architects, landscapers and contractors about steps they can take to be more responsive to flooding issues.

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

WHEREAS, the City of Rye has suffered from severe floods over the last decade that have seriously damaged public and private property; and

WHEREAS, flooding has caused homeowners, the City, and other property owners millions of dollars for the cost of emergency services, restoration, and mitigation; and

WHEREAS, it is forecast that Rye will continue to suffer from such destructive floods in the coming years; and

WHEREAS, the City urges the appropriate Departments, Boards, Committees and Commissions to develop educational material regarding the viability of certain site development solutions; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Rye attaches the highest priority to prevent flood damage; and be it further

RESOLVED, that the City urges all property owners in Rye, both public and private, to consider the consequences of their decisions that may exacerbate flooding in the City; and be it further

RESOLVED, that the City wishes to create a permanent Flood Action Committee with a Council liaison to advise the City Council on flood related projects and activities in and around the City of Rye; and be it further

RESOLVED, that the City direct all Departments, Boards, Committees, and Commissions to take additional scrutiny in reviewing land-use applications and variances with a greater sensitivity to stormwater impacts and to strive to subsequently monitor these applications on an on-going basis.

ROLL CALL:

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

The Resolution was adopted by 6-0 vote.

9. Discussion of a draft Resolution to open Oakland Beach at Rye Town Park for public access during the off-season

Councilwoman Parker said that as of November 1st, the beach at Rye Town Park was scheduled to be closed to public access. She said she had attended the last meeting of the Rye Town Park Commission (Commission) and asked them to consider keeping beach access open during the off season. She said they were agreeable if that is what the Council wants. Ms. Parker also said she believed it was a good time to consider reinstating a previous policy of having a section of the beach designated where dogs could be off-leash and offered a proposed resolution that would include both options. There was a discussion about including the language about dogs on the beach without bringing the issue back to the Commission and also whether the City should pass legislation that would allow dogs to be off-leash in the park before 9:00 a.m. Corporation Counsel Wilson advised that due to the enabling legislation for Rye Town Park, any law passed by the City of Rye could not trump the Rye Town Park Commission's ability to run and operate the park. Members of the public including *John Carolin, Dawn Wilson, Josh Nathan, Laura Brett, Young Kim and Rene Lipsio* spoke in favor of keeping the beach open during the off-season and allowing dogs on the beach if their owners follow the rules and also urging the County to allow dogs on Playland Beach as well. Councilwoman Parker decided to withdraw the sections from her proposed resolution that dealt with dogs on the beach in order to bring the issue back to the Rye Town Park Commission. Corporation Counsel Wilson said that there would have to be signage put up regarding people being on the beach when there is no staff. City Manager Pickup said he is awaiting clarification from Rye Town regarding sanitation collection since they already pick up trash in the park during the winter. Mayor French said it was the consensus of the Council to go forward with public access to the beach, with one gate opened by City staff in the morning and closed at dusk from November through April.

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

WHEREAS, the City Council authorizes the City Manager to enter into an Agreement with the Rye Town Park Commission; and

WHEREAS, the Rye Town Park Commission has indicated that they will take the lead from Rye City Council regarding winter public access to Oakland Beach and Rye Town Beach at Rye Town Park; and

WHEREAS, the Rye City Council finds that public beaches should be accessible for use by the public during the off-season;

NOW, THEREFORE, BE IT RESOLVED, that the Rye City Council hereby recommends to the Rye Town Park Commission the following policy for use for the 2011-2012 winter, early spring season,

1. Oakland Beach and Rye Town Beach at Rye Town Park will be open for the winter.

2. This rule will remain in place until the close of the middle weekend in April each year.

ROLL CALL:

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

The Resolution was adopted by 6-0 vote.

Mayor French added that he had spoken with the consultant who is doing the dissolution study for the Town of Rye and indicated that if the Town is dissolved, the City would be in favor of operating Rye Town Park under the right financial conditions. However, if the dissolution study does not happen, the Council should approach the State Legislature about changing the make up of the Commission to get better representation for the City.

10. Residents may be heard on matters for Council consideration that do not appear on the agenda

John Carolin, 66 Milton Road, thanked City Manager Pickup and Councilman Sack for approaching Con Edison to correct the power source problem on the Post Road. He said that residents of Blind Brook Lodge cannot continue to be inconvenienced by power outages. In response to a question about Con Edison prioritizing restoration of power to buildings with a certain percentage of seniors, City Manager Pickup said that normally they prioritize for the greatest number of people first but in the current situation their response was below normal. The creation of a volunteer committee that could aid people without power was mentioned.

Ray Tartaglione suggested moving this agenda item to the beginning of the agenda for seniors. Mayor French indicated that anyone who has special requirements could contact him in advance about being moved up in the agenda. Mr. Tartaglione said he wanted to make a presentation regarding a property owned by the Mayor where he believes illegal building work was done, in order to get the City Manager to investigate the Mayor. Mayor French directed Mr. Tartaglione to address his concerns to the City Manager, who is the Chief Enforcement Officer of the City, or to the Building Department. Councilman Jovanovich said that the Council is forbidden from getting involved with enforcement matters in Rye's City Manager form of government. City Manager Pickup said that no violation has been issued in question with the property owned by Mayor French and he would sit down with Mr. Tartaglione and discuss his concerns.

Rene Lipsio, Palisade Road, said that the bump outs installed at Palisade Road and Midland Avenue are horrible and make things worse for residents and that speeding has increased. She asked when the stop sign would be put up. She also complained about construction work being done at the location. City Manager Pickup said that a proposal with a design of the stop sign has been submitted to the County, but they have significant reservations and the project cannot go forward without a County permit. The issue of the importance of enforcement of speeding violations was discussed as well as asking outside construction vendors

to take school and senior's schedules into consideration when making deliveries. City Manager Pickup said the Council can impose restrictions relating to construction but advised that it must balance the property issues relating to construction with the right-of-way issues. He said additional restrictions that would require daily inspections of construction sites would require hiring additional staff that is not in the proposed budget. He added that issues related to curb cuts caused a bigger obstruction in the right-of-ways than delivery trucks.

Jim Amico, Midland Avenue, spoke about several matters:

- He said the City has the authority to do anything it wants in connection with construction. He said delivery and construction vehicles should not be able to park on sidewalks and the Police Department should be issuing tickets.
- He said he wanted a stop sign put up at Midland and Palisade and that the City does not need County approval to do so. He disagrees with what the County says about the stop sign and believes a stop sign would have prevented two accidents involving children. He accused the City Manager of forcing the County to issue a letter against the erection of a stop sign. (City Manager Pickup said he does not have the authority to force a County official to do anything against their will.)
- He presented copies of a letter sent to the School Board regarding their proposed renovation to the High School/Middle School campus and said the City was asking the Police Department not to enforce violations around the schools. (City Manager Pickup said the purpose of the letter was to notify the Board of Education that the preferred solutions of the City Council were to do as much pedestrian and traffic and safety improvements on the site as possible because changes will not be able to be made after the building is constructed.)

Agenda Item 13 was taken out of order.

11. Resolution to re-allocate \$3,943.43 of the remaining 2002 Recreation Bond proceeds scheduled towards payment of 2012 Debt Service to use towards the 2011 final payment on the Rye Town Park roof project

City Manager Pickup said that the Council had previously authorized debt proceeds to be utilized to pay for the City's share of the roof repair project at Rye Town Park. The final bills indicate that the actual project cost came in above the allocated appropriation of the Recreation Bond proceeds. The action required is to modify the original Resolution to reflect the additional payment for the project.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes the reallocation of \$3,943.43 of the remaining 2002 Recreation Bond proceeds, scheduled toward the payment of the 2012 Debt Service, to be used towards the 2011 final payment on the Rye Town Park roof project.

ROLL CALL:

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

The Resolution was adopted by 6-0 vote.

12. Authorization for the City Manager to enter into an Intermunicipal Agreement with Consolidated Edison Company of New York, Inc. to allow access for a DEC-approved remedial investigation and clean-up

City Manager Pickup said that as a result of the manufacturing of gas that used to go on by Con Edison at the facility that is currently used for storage and maintenance there is a substance at the facility that is a residue of that process that the Department of Environment Conservation (DEC) wants remediated. In order to continue the clean up Con Edison needs access to Gagliardo Park to do testing and monitoring. He said there is no danger from the material to safety and health and the City would be entitled to receive any reports issued.

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

RESOLVED, that the City Manager is hereby authorized to enter into an Intermunicipal Agreement with Consolidated Edison Company of New York, Inc. to allow access to property located at 31 Hill Street (Gagliardo Park) for a DEC-approved remedial investigation and clean-up.

ROLL CALL:

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

The Resolution was adopted by 6-0 vote.

13. Consideration of authorizing the City Manager to endorse the implementation of an easement between the Apawamis Club and Henry F. Skelsey and the City of Rye

Barbara Cummings, Esq., an attorney representing the owner of 16 Sunset Lane, a street where a sewer line is being put in, asked the Council to amend the proposed Easement Agreement to reflect an extension of the easement so that the sewer can be connected to his house as well. Corporation Counsel Wilson said that the language of the easement allows for the

easement to be extended to additional properties along Sunset Lane in the future. City Manager Pickup said the City was accepting the easement for the maintenance of the sewer line. It was suggested that the language of the easement be changed to specifically reference the 16 Sunset Lane property.

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

RESOLVED, that the City Manager is authorized to accept a Sanitary Sewer Easement between the Apawamis Club and Henry F. Skelsey and the City of Rye.

ROLL CALL:

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

The Resolution was adopted by 6-0 vote.

14. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department

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

RESOLVED, that the proposed revision of the Rules and Regulations of the City of Rye Police Department, a new General Order #113.20, "Hate Crimes", is hereby approved.

ROLL CALL:

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

The Resolution was adopted by 6-0 vote.

15. Miscellaneous Communications and Reports

Councilwoman Keith congratulated the YMCA on the forum they recently held on Diabetes Awareness.

16. Old Business

Mayor French brought up several topics. Feedback on the proposed local law banning plastic bags should be forwarded to Councilwoman Keith prior to the public hearing that will be held on November 16. Councilman Filippi is working on the Tree Ordinance. The Distracted Driving Pledge should be reconsidered at the beginning of the year. Feedback from the Shared Roadways workshop should be reconsidered.

Councilwoman Keith asked for an update on the Central Avenue Bridge. City Manager Pickup said the City has submitted everything to the Department of Transportation and is waiting for authorization to proceed. Ms. Keith asked if the Black Bass demolition could coincide with the Bridge repair. Corporation Counsel Wilson said that the City is working with the owner who has filed for a demolition permit and is trying to get an asbestos contractor. The permit will be issued when the asbestos issue is resolved.

17. New Business

Mayor French asked for clarification on the requirements for the Charter change for the Fire Department discussed under Agenda Item 6. Corporation Counsel Wilson said that based on the scope of changes discussed, she believed it could be done by local law and would not require a referendum but she said she would look into it.

18. 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 11:10 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk