

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on February 8, 2012 at 8:00 P.M.

PRESENT:

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

ABSENT: None

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

There were no announcements made.

4. Draft unapproved minutes of the regular meeting of the City Council held January 25, 2012

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to adopt the minutes of the regular meeting of the City Council held on January 25, 2012, as amended. Councilwoman Parker said she wanted it noted that she did not feel the workshop minutes accurately represented the workshop – nothing specific was cited.

Mayor French reported that the Board of Ethics had met on the issues referred to them by Councilman Jovanovich and have ruled that there was no preferential treatment sought or received by the Mayor. Councilman Jovanovich read a statement regarding the issue. There was a lengthy discussion among the Council regarding the Board of Ethics process; how it worked in this situation; if the makeup of the Board should be changed; and if there should have been an independent investigation of the issues in question as suggested by Councilman Sack.

5. Mayor's Management Report
● Update from the Golf Club Commission

Golf Club Manager Scott Yandrasevich provided an update on the Golf Club that touched on the following points:

- The Golf Club Enterprise Fund is responsible for all costs associated with the operation and maintenance of the Club, which is done through revenues and user fees.
- The Golf Commission, elected by the club members, meets at open monthly meetings to discuss rules, policies and budget considerations.
- The current business model may not be sustainable in the future to operate a self-sustaining business.
- Membership has dropped since 2008 due to an overall decrease in golf and the economy.
- The Club's Finance Committee and Commission decided to use Fund Balance to balance the budget this year and in the last two years, as a short-term solution in order to be sensitive to economic conditions.
- The Club's contribution back to the City for 2012 is budgeted in excess of \$950,000.
- Decisions made by the Commission are based on the overall good of the club.
- Elections for the Commission are always contested and in eight out of the last ten elections have resulted in a new member for the Commission.
- Once dues or policy changes are discussed and approved, they are changed in the new membership year in order for the changes to be included in the new member handbook and renewal paperwork.
- Information is posted at the Club, on the member's website, emailed and included in the member handbook.
- Rye Golf Club is not a public club, it is a membership club that is publicly owned, and puts no financial burden on city taxpayers.
- The Club has engaged in shared services with the Rye Nature Center, Rye Recreation summer camp, Rye High School and Rye Neck High School.
- Implementing a spending minimum has been discussed since 2008 and was implemented during this year's budget discussions and referenced on the 2012 fee schedule.

Members of the public commenting included Commission Member *Pat Geoghegan* and *Jessie Harper*, *Sis D'Angelo*, *Frank Kenny* and *Kate Tiedemann*. They spoke about the change in the Senior Membership to a House Membership; selling the Club; membership fees and structure; and applying the required minimum to additional areas other than Whitby Castle.

● Legal Update

Corporation Counsel Kristen Wilson said that as a result of an Article 78 proceeding brought against the City, *Townsend v. Board of Appeals*, it has come to the City's attention that

an amendment to the City's Fence Ordinance might be considered. A proposed amendment to Chapter 90, Section 2 regarding fence height will be in the Council's packets.

6. Consideration to set a Public Hearing to amend the City of Rye Charter: Article 13, for the Fire Department reporting directly to the City Manager

City Manager Pickup said the proposed change is the first in a series of steps to deal with transitions in the Fire Department.

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

WHEREAS, the Council wishes to amend Article 13 "Fire Department" of the Charter 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 February 29, 2012 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

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

**PUBLIC NOTICE
CITY OF RYE**

Notice of Public Hearing on a proposed local law to Amend Article 13 "Fire Department" of the City Charter of the City of Rye, to have the Board of Wardens report to the City Manager's office.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 29th day of February, 2012 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal to amend Article 13 "Fire Department" of the City Charter of the City of Rye to have the Board of Wardens report to the City Manager's office.

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

Dawn F. Nodarse

City Clerk

Dated: February 21, 2012

7. Consideration to set a Public Hearing to amend local law Chapter 191, Vehicles and Traffic, of the Rye City Code, Section 47, subsection (E) to delineate the hours for "all night" parking

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

WHEREAS, the Council wishes to amend Chapter 191, Vehicles and Traffic of the Code of the City of Rye by amending Section 191-47 (E); 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 February 29, 2012 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

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

**PUBLIC NOTICE
CITY OF RYE**

Notice of Public Hearing on a proposed local law to amend Chapter 191, Vehicles and Traffic, Section 191-47 (E), "Parking applications, fees and locations" of the Code of the City of Rye in order to delineate the hours for all night parking.

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 29th day of February, 2012 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons

will be afforded an opportunity to be heard concerning a proposal to amend Chapter 191, Vehicles and Traffic, Section 191-47 (E), "Parking applications, fees and locations" of the Code of the City of Rye in order to delineate the hours for all night parking.

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

Dawn F. Nodarse
City Clerk
Dated: February 21, 2012

8. Consideration of a Home Rule Message to authorize the City of Rye to collect a transfer tax on the sale of real estate

Councilwoman Parker said that she did not think this agenda item was ready for Council discussion yet. Information has been circulated to the Council regarding home sales in Rye as of December 29th, as well as a list of States and municipalities that have a transfer tax. City Manager Pickup said he is working with the Assessor to update some existing transfer tax legislation in Westchester County. He said it would be helpful to have a decision by the end of the month in order to get a request into the legislative hopper prior to the State budget discussions. Mr. Pickup said he would circulate any additional information the Council requests and place the issue on the next Council agenda.

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

Arthur Stampleman, 720 Milton Road, spoke about the issue of restoring bus service to Milton Point. He provided comments that he had received from people impacted by the loss of the Route 76 bus and a map comparing the routes of the #13 and #17 buses. Councilwoman Parker said she would set up a meeting with the County Executive's Office.

Jim Amico, 350 Midland Avenue spoke about a proposal before the Planning Commission regarding 35 Cedar Place and said that signs should be posted on the property so people who do not live within the required noticing area can know what is going on. He also read a statement about the Board of Ethics procedures and membership.

Jordan Glass, Esq. read a statement about the recent Board of Ethics deliberations.

Leon Sculti, 6 Ridgeland Terrace, read a statement regarding the video he made on the rental property owned by Mayor French and responding to a City Update sent out by the Mayor.

10. Authorization for Vincent Toomey, Esq. to assist the Rye Free Reading Room in personnel contract negotiations
Roll Call.

City Manager Pickup said that in negotiating the IMA with the Library, the Council had asked to have input in their upcoming contract negotiations. The money is coming out of the City's standard labor relations budget. It was noted that this represented an increase to the Library's approved funding and a suggestion was made that if the savings realized in the new contract for library employees did not equal the amount expended by the City for the services of the labor attorney, it should be deducted from the Library's funding next year.

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

RESOLVED, that the City Council of the City of Rye hereby authorizes Vincent Toomey, Esq. to assist the Rye Free Reading Room in personnel contract negotiation at the rate of Two Hundred (\$200.00) Dollars per hour, for an amount not to exceed Ten Thousand (\$10,000.00) Dollars.

ROLL CALL:

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

The Resolution was adopted by a 5-0 vote.

11. Authorize payment of the balance of the 2011/2012 Rye Neck Union Free School District taxes collected by the City to the School District
Roll Call.

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

RESOLVED that the City Council of the City of Rye hereby authorizes that payment of the balance of \$286,452.83 of unpaid Rye Neck U.F.S.D taxes, on property within the City of Rye as of December 31, 2011, be made to the Treasurer of the Rye Neck UFSD.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

12. Three appointments to the Flood Advisory Committee for three-year terms and three appointments for two-year terms, by the Mayor with Council approval

Councilwoman Keith made a motion, seconded by Councilman Filippi, and unanimously carried, to appoint Bernard Althoff, Rafael Elias-Linero and Larry Lehman to the Flood Advisory Committee for three-year terms, expiring on January 1, 2015.

Councilwoman Brett made a motion, seconded by Councilman Jovanovich and unanimously carried, to appoint Annette Guarino, Holly Kennedy, Richard Mecca and Dean Neely to the Flood Advisory Committee for two-year terms, expiring on January 1, 2014.

13. Designation of the Chairman of the Flood Advisory Committee by the Mayor

Mayor French appointed Rafael Elias-Linero to serve as the Chairman of the Flood Advisory Committee and Larry Lehman to serve as the Vice Chairman.

14. One appointment to the Board of Assessment Review for a five-year term expiring on September 30, 2016, by the Mayor with Council approval

Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to appoint Debbie Galliard to the Board of Assessment Review for a five-year term expiring on September 30, 2016.

15. Appointment of one member to the Emergency Medical Services Committee to fill a term expiring on June 30, 2014

Mayor French made a motion, seconded by Councilman Jovanovich and unanimously carried, to appoint Bart DiNardo to serve as the City of Rye Community Representative to the Emergency Medical Services Committee to fill a term expiring on June 30, 2014.

16. Acceptance of donation to the Rye Police Department from the National Philanthropic Trust/Edward and Elisabeth Wolfe Foundation in the amount of one thousand five hundred (\$1,500.00) dollars

Roll Call.

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

WHEREAS, the National Philanthropic Trust/Edward and Elisabeth Wolfe Foundation desires to donate one thousand five hundred (\$1,500.00) dollars to the Rye Police Department; and

WHEREAS, the fiscal 2012 General Fund budget did not anticipate these donations; now therefore be it

RESOLVED, that the City Council of the City of Rye accepts the aforementioned donations; and be it further

RESOLVED, that the City Comptroller is authorized to amend the fiscal 2012 General Fund budget as follows:

Increase Deferred Revenues – Police Donations \$1,500.00.

ROLL CALL:

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

The Resolution was adopted by a 6-0 vote.

17. Miscellaneous Communications and Reports

Mayor French thanked Judge Carey for videotaping the off-site Council strategic workshop. He also said that Bob Clyatt has been asked to come to the February 29th meeting to make a presentation about putting sculpture on Purchase Street during May and June.

Councilwoman Brett said she believes the City can do a better job to make sure its processes appear fair and follow the law and would like to discuss her thoughts with Corporation Counsel Wilson.

Councilwoman Keith reported on the following items:

- The Finance Committee met and will focus on projects to get the City back on a financially sustainable path. They will make a presentation at the February 29th meeting.
- The Shared Roadways Committee had a Safe Routes to School meeting and decided that since All State is doing a school program on testing and driving, this may replace the “No texting pledge.”
- The discussion of using the \$20,000 grant from the YMCA to paint “sharrows” on Forest Avenue will be discussed at a March meeting.

18. Old Business

Councilwoman Keith asked the City Manager and Corporation Counsel for updates on the following items:

- Central Avenue Bridge – The City has responded to the comments from the Department of Transportation regarding the design report and construction management plan and is waiting for approval to bid the project.
- 2 Central Avenue (Black Bass Grill) – The contractor received a variance regarding the amount of tenting necessary to remove the asbestos. Confirmation has been received from the utility companies that the utilities have been shut off. The contractor is not available to demolish the building until the week of February 27th.
- Sluice Gate – The project will go out to bid and may come back to the Council in April.

Councilman Filippi asked if a suggestion he had made, at a previous meeting, of putting advertising on City vehicles could be added to the Home Rule discussion on February 29th.

19. New Business

Councilman Sack said that he understands that the January 25th Fire Department workshop was taped. He said he has a question related to that, which he would like to discuss in Executive Session.

Councilwoman Parker said she heard the County Executive would be holding a press conference on flood mitigation and asked if anyone knew about it.

Mayor French said that even though there is no capital budget for this year, there are simple things that can be done around town to make things look better.

20. Adjournment

There being no further business to discuss Councilman Jovanovich made a motion, seconded by Councilwoman Parker and unanimously carried, to adjourn the meeting at 11:07 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk



CITY OF RYE
CITY HALL • RYE, NEW YORK 10580
TELEPHONE (914) 967-5400

TO: Rye City Council
FROM: Scott Pickup and Kristen Kelley Wilson, Esq.
CC: Litigation and Case Management Committee
DATE: February 6, 2012
RE: 13 Richard Place – Building Violation and STAR Exemption

Below are the facts as presented to the Board of Ethics with respect to the two questions referred to it by Deputy Mayor Jovanovich.

Building Violation – Timeline of Events

- **July 2011** – Complaint logged in by building department staff. When any complaint is logged into the computer (a feature of the existing Govern software), it is automatically assigned a number beginning with a “V”. The current software product has no records capability for “notes” on a specific property.
- **Between July 2011 and August 31, 2011**, the Building Department commenced a “record search” of property records for 13 Richard Place. The commencement of the record search is known because when the City hired a new building inspector in November 2011, documents were located on the building inspector’s desk that related to plumbing and electrical work at 13 Richard Place. These permits were not originally located in the building department’s files in response to FOIL requests since they had been removed at some point and placed on the desk of the building inspector.
- **October 25, 2011** – City Manager requested that Acting Building Inspector request permission to inspect 13 Richard Place. Homeowner grants access.
- **November 1, 2011** – City hired new building inspector.
- **November 15, 2011** – Compliance letter is sent to homeowner informing owner of complaint. No time frame for compliance is set forth in the letter.
- On or around **December 9, 2011** – Homeowner meets with building inspector.

- **December 23, 2011** – Violation is issued for performing work without a permit and for change in occupancy from a two-family home to a single-family home.
- **December 29, 2011** – Second meeting with homeowner.
- **January 29, 2011** – Building inspector meets with homeowner’s architect.
- Approximately two weeks ago, building inspector has discussion with Department of State – Division of Code Enforcement and Administration regarding attic storage and occupancy in relation to previous building codes, and it’s time sensitivity to when work was completed.
- Currently – architect is working with building department to document the existing conditions of 13 Richard Place.
- In 2010, approximately 114 violations were issued to City of Rye homeowners.

STAR Exemption – Timeline of Events

- To receive the Basic STAR exemption, there is a one time application that, unlike other exemptions (enhanced star, senior citizens, not-for-profits), does not require annual renewals.
- **November 1992**, 13 Richard Place is purchased by homeowners
- **April 1998** – Homeowners file Basic STAR application for 13 Richard Place as their owner occupied primary residence.
- **November 1999** – Same homeowners purchase 46 Meadow Place.
- **August 2000** – Homeowners file Basic STAR application with utility bill (showing proof of residency) for 46 Meadow Place as their primary residence.
- **2011** – New York State amends STAR legislation establishing a new cap on income eligibility for Basic Star exemption.
- **February 2011** – State sends City Assessor’s office lists of those property owners who no longer qualify for the STAR exemption based on income levels and a list of property owners for which the state could not determine eligibility (the “Undetermined List”). According to New York State, there were 3,262 Basic Star exemptions in the City, of which 739 no longer qualified and 416 could not be determined (the “Undetermined List”).
- In **March/April 2011**, City assessor sends letter to all homeowners on the “Undetermined List” attaching a State form. Homeowners are asked to sign and return the State form if their income was under \$500,000. Homeowners advised that if the State form was not returned, the Basic STAR exemption on the property would be automatically cancelled.
- **April 2011**, homeowners for 46 Meadow Place returned form. Form for 13 Richard Place is never returned.
- **April 2011**, STAR exemption on 13 Richard Place is cancelled. On the Undetermined List, approximately 200 exemptions were removed as a result of rentals, duplicate exemptions (three), and for failure to return the required form.
- **June 2011**, a new process that permits for voluntary full restitution of taxes is developed and forms are created for the County to process the amount owed, collect the taxes and submit same to New York State.

- **December 2011**, after inquiring, Westchester County notifies City Assessor of voluntary restitution process. As of December 2011, the County had only processed one application for full voluntary restitution.
- **December 28, 2011** – City assessor sends voluntary restitution form to homeowners of 13 Richard Place. Homeowners subsequently send in form to County and send in full payment once notified of amount owed plus interest and processing fee.
- Homeowners of 13 Richard Place were treated in the same fashion as the other homeowners under their circumstances.

Board of Ethics
City of Rye, NY

Approved Minutes

The Board of Ethics of the City of Rye met February 2, 2012 in the Mayor's Conference Room at Rye City Hall. The subject of the meeting was a request by Deputy Mayor Peter Jovanovich to review two specific questions submitted to the Board on January 25, 2012.

In attendance were appointed members John L. Alfano, Edward Dunn and Elizabeth Griffin Matthews and ex officio members City Manager Scott Pickup and Corporation Counsel Kristen Wilson.

Beth Matthews, chair, called the meeting to order at 10:05 am. There was a quorum to conduct deliberations.

The Board discussed procedural and operating issues and determined that responding to Deputy Mayor Jovanovich's questions would require an executive session. John Alfano moved that the board go into executive session to discuss issues with potential personnel impact. Ted Dunn seconded the motion, which was approved 5-0. Before the board went into executive session, it heard a lengthy statement from Ray Tartaglione, in which he offered his opinion on the questions to be discussed.

The Board went into executive session at 10:30 am. During the session, the Board interviewed City Assessor Noreen Whitty and City Building Inspector Maureen Eckman.

The Board determined:

1. Mayor French neither sought nor received preferential treatment by City employees with respect to STAR exemptions for his properties at 13 Richard Place and 46 Meadow Place. Other property- and homeowners in a similar position received the same treatment.
2. Mayor French neither sought nor received preferential treatment by City employees in the manner the City and its Building Department handled a complaint regarding a potential violation of the building code at 13 Richard Place. The potential violation by the Mayor was handled in the same way that similar building code issues are resolved with other homeowners each year.

The Board returned to public session. Matthews delivered the determinations and the meeting was adjourned at 11:45 am.

Respectfully submitted by Beth Matthews