

APPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on February 29, 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

The Council convened at 7:35 p.m. Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried to immediately adjourn into executive session to discuss personnel matters. Councilman Sack and Mayor French arrived at 7:45 p.m. Mayor French made a motion, seconded by Councilman Filippi and unanimously carried to adjourn the executive session at 8:31 p.m. The regular session began at 8:44 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

- Councilwoman Keith and her family will be moving to Texas and she will be stepping down from the Council after the June 13th meeting.
- The Council will make an appointment to fill the seat until the end of this year, and there will be an election in November to fill out the remainder of the term.

4. Draft unapproved minutes of the regular meeting of the City Council held February 8, 2012

Councilwoman Keith made a motion, seconded by Councilman Jovanovich and unanimously carried, to approve the minutes of the regular meeting of the City Council held on February 8, 2012, as amended.

5. Mayor's Management Report

- Request regarding the display of sculptures on Purchase Street during the Rye Arts Centers' Figurative Sculpture exhibition

Helen Gates, Director of the Rye Arts Center, and Bob Clyatt spoke about a proposal to display art on Purchase Street, the lawn of the Rye Arts Center and possibly the Village Green. The exhibit will begin on May 6th with a reception at the Rye Arts Center, and will run until June 16th and will feature 20 artists from outside of Rye. During this time the Arts Center will hold workshops, family events and educational discussions. It is expected that the event will draw many visitors to the City. The pieces will be mounted on top of 10 foot poles to keep the sculptures out of "harms way". Artists will be invited to Rye to walk Purchase Street and identify five to ten locations to place the sculptures. The sculptures will go up in late April and be taken down before Memorial Day. The City will be asked to add a rider to its liability insurance to cover the sculptures and the Department of Public Works will be asked to assist in the installation.

- Update from the Landmarks Advisory Committee

Committee members Jack Zahringer, Maurio Sax, Richard Hourahan and Sheri Jordan updated the Council on two issues that the Landmarks Advisory Committee is dealing with in connection with their agenda to "Keep Historical Rye, Rye". The Committee would like to have the three "milestones" in the City landmarked. The milestones, which go back to the time of Benjamin Franklin, were purchased from the State in 1927 by John Morehead and replaced near their original locations. The Committee is also working to identify and save historical homes that are more than 100 years old. They said it is important to have a visible record of Rye that tells about the different areas of the City. A subcommittee will go out and look at structures and how they are landscaped and communicate with the homeowners to inform them about their homes and neighborhoods.

- Legal Update

Corporation Counsel Wilson reported on the following matters:

- *Butler v. Planning Commission* – This Article 78 proceeding is now fully submitted before the Supreme Court, Westchester County.
- *McKeever v. City of Rye* – A trial is scheduled be held in City Court on March 7th in connection with this matter. The case is being handled by attorneys for the City's insurance carrier.

Mayor French said that the Council is dealing with a personnel matter that has been made public and will report to the public on it when there is something to say on the issue.

6. Presentation by the Finance Committee on Healthcare costs

Norm McMaster, a former member of the Finance Committee, made a presentation on the issue of retiree healthcare trends. The presentation highlighted the following areas:

- Five Year trends in payroll taxes, retirement contributions to New York State, employee healthcare costs and retiree healthcare costs.
- The amounts of unfunded retiree healthcare liabilities and their financial burden on the citizens of Rye.
- Many private sector companies and small to mid-sized governments are phasing out retiree healthcare benefits.
- New York State is not addressing the problem, but other states and local governments are addressing the costs of retiree healthcare in various ways.
- The Empire Center for New York State Policy's paper on retiree healthcare costs entitled "Iceberg Ahead", which clarifies key issues and provides recommendations for dealing with the issue of retiree healthcare costs.
- The book "Boomerang" by Michael Lewis, which outlines "Service Level Insolvency" such as fewer police and firefighters and other staffing and service cuts that can happen when municipalities fail to deal with the issue of rising retiree healthcare costs.

City Manager Pickup said that the issues covered in the report emphasize the need for mandate relief with the imposition of the tax cap requirements. Legislative action is needed at higher levels of government to offer relief to municipalities, which is a difficult process to go through in New York. The City is working through the collective bargaining process and retiree benefits are part of the issues being discussed.

Councilwoman Parker noted that New York State instituted Tier V that extended the retirement age and that Governor Cuomo has suggested going to a Tier VI. She suggested that an updated report dealing with how this will affect the City would be helpful.

7. Public Hearing to amend the City of Rye Charter: Article 13, for the Board of Wardens to report directly to the City Manager

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

Members of the public commenting on the proposed local law included former Councilman *Andy Ball, 80 Central Avenue*, and *Ray Tartaglione*. Mr. Ball said he was not sure where the Wardens and volunteers stood on the issue, but cautioned the Council to take a long-term view before making the proposed change and consider what the change could do to the moral of the volunteers. Mr. Tartaglione said he did not think the Council should rush to judgment because not everyone was comfortable speaking in public and urged the Council to look at the issue of why the Fire Department meeting was not televised first.

Councilwoman Parker and Councilman Sack, who have been meeting with both career and volunteer members of the Fire Department, suggested that it might be better to wait on codifying the proposed change of having the Board of Wardens report directly to the City

Manager until the process of reviewing the operation of the department to determine how it should be run going forward is complete. Mayor French and Councilmembers Jovanovich, Keith, Brett and Filippi said that the proposed change was a positive step that has the support of the Board of Wardens and is a good first step in moving the discussion on the Fire Department forward.

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

Councilman Jovanovich made a motion, seconded by Mayor French, to adopt the following local law:

**CITY OF RYE
LOCAL LAW NO. 1 2012**

**A Local Law to amend the Charter, Article 13, for the Board
of Wardens of the City of Rye Fire Department to report
directly to the City Manager**

Be it enacted by the City Council of the City of Rye as follows:

Section 1: Article 13, Fire Department

§ C13-1. Head of Department: Board of Fire Wardens.

The members of the several fire companies of the city shall constitute the Fire Department of the City of Rye, the head of which shall be the Board of Fire Wardens. The maximum number of members of each company shall be fixed by the Council. The Fire Chief, the First and Second Assistant Fire Chiefs and the Wardens of such companies shall constitute the Board of Fire Wardens.

§C13-2. Election of officers.

- A. The members of the Fire Department shall elect annually by ballot from their members a Fire Chief, a First Assistant Fire Chief and a Second Assistant Fire Chief and their election shall be subject to the approval of the Council.
- B. Each of the several fire companies shall elect annually by ballot from their own members a Warden for a term of two years.

§ C13-3. Powers and duties of the Board.

- A The Board of Fire Wardens in conjunction with the City Manager, shall have control and supervision of the Fire Department and of all equipment and

apparatus thereof, subject to the authority and control of the Council.

- B. The Board in conjunction with the City Manager shall make recommendations with employment of such persons as the Council may deem necessary and proper in the Department within budgetary limitations.
- C. The Board shall fill any vacancies in the offices of Fire Chief and First and Second Assistant Fire Chiefs, subject to the approval of the Council.
- D. The Board in conjunction with the City Manager shall, subject to the approval of the Council, adopt and enforce rules and regulations, not inconsistent with the provisions of the Civil Service Law or any other law, for the control, disposition and discipline of the officers, members and employees of the Department, for their training and efficiency, and for the use and care of equipment and apparatus of the Department.
- E. The Board shall approve the by-laws adopted by the several fire companies for the government and discipline of their members.
- F. The Fire Department shall comply with city regulations, practices and procedures relating to administration, employees, purchasing and accountability of city property, except as otherwise provided by the Council.

§C13-4. Powers of Fire Chief.

- A. The Fire Chief shall be Chairman of the Board of Fire Wardens and preside at meetings of the Board and Fire Department.
- B. He shall, under the direction and control of the Board, in conjunction with the City Manager have supervision of the officers, members and employees, and the equipment and apparatus of the Fire Department and also, shall have exclusive control of the officers, members and employees of the Department at all fires, inspections and reviews.
- C. He may appoint from members of the Department "call men" on a part-time basis when necessary, subject to the approval by the Board of Fire Wardens, and their compensation shall be fixed by the Council.

§C13-5. City Manager.

The Board of Fire Wardens shall report to the City Manager. The City Council shall be the final authority over the Fire Department.

Section 2: This local law will take effect immediately on filing in the office of the Secretary of State

ROLL CALL:

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

The local law was adopted by a 5-2 vote

8. 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

City Manager Pickup said that the purpose of the proposed local law was to clarify the times for all night parking permits in City lots in order to codify what has been the practice.

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

The only member of the public commenting on the proposed local law was *Jim Amico*, 350 Midland Avenue, who said that people who live in the apartment buildings need parking.

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

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

**CITY OF RYE
LOCAL LAW NO. 2 2012**

**A Local Law to amend Chapter 191, Vehicles & Traffic,
Section 191- 47 (E), “Parking applications fees and location” of
the Code of the City of Rye.**

Be it enacted by the City Council of the City of Rye as follows:

Section 1:

§191-47 (E) Parking time limits and fee.

Residents of the City of Rye desiring an all-night parking permit shall, upon application to the City Clerk and payment of an annual fee, receive a tag or license permitting him/her to park his/her automobile between the hours of 7:00 p.m. and 7:00 a.m.

Section 2: This local law will take effect immediately on filing in the office of the Secretary of State.

ROLL CALL:

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

The local law was adopted by a 7-0 vote

Agenda Item 11 was taken out of order

9. Consideration to set a Public Hearing to adopt a Home Rule Message to authorize the City of Rye to collect a transfer tax on the sale of real estate

City Manager Pickup said that since the last discussion of this item, a comparison was done regarding cash sales in Rye vs. Greenwich. The proposed tax would add additional closing costs to a sale of a property in Rye. An example was given that it would add about \$25,000 to a \$2.5 million sale. Mayor French said it was his understanding that the State Legislature will renew certain taxes that are in place such as the Hotel Occupancy Tax, but is reluctant to establish any new taxes. City Manager Pickup said that in many cases when transfer taxes have been approved, the money has been targeted for specific purposes. Councilwoman Brett, the liaison to the Government Policy and Relations Committee, said that the Committee is looking into this issue and their initial view is that it is complicated. She asked if they should continue with their work if it was unlikely that such a tax would be approved. Other members of the Council said that a report from the Committee would be a good way to get more information on the issue so the Council can make an informed decision about pursuing the imposition of a transfer tax in Rye in order to help offset the 2% tax cap. City Manager Pickup said it is practice in Albany to have a Home Rule message prior to acting and there is no guarantee that they will act on it in the current legislative session. *Joseph Latwin* said that before the City goes forward with a transfer tax on cash sales they should examine the potential consequences very carefully.

10. Consideration to increase the payment amount for the sole recipient of the Police Pension Fund

Councilwoman Parker said there is only one widow who still receives money from this fund. She has not had an increase since 2001 and receives less than \$3,000. Ms. Parker said that the Council should consider authorizing a cost of living adjustment. City Manager Pickup said that any change would have to be done by local law, especially if there would be an annual adjustment.

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

Caroline Grist, 77 Dearborn Avenue, and Kirsten Vasho, 85 Dearborn Avenue, urged the Council to implement a complete ban on gas-powered leaf blowers, saying the current seasonal

ban does not go far enough. They said that the use of leaf blowers causes health issues in children.

City Court Judge *Joe Latwin* presented the Council with lapel pins from the Rye United Football Club, the local professional soccer club from Rye, England. The pins commemorate the club's 75th anniversary.

Jim Amico, 350 Midland Avenue, read a statement saying that the current Council spends time on their own personal agendas and not resident's issues. He asked why an agenda item dealing with a stop sign on Midland Avenue was removed from the agenda. Mayor French said that the City is still working with the County on the issue and the item will be put on the agenda when it is ready for presentation.

Arthur Stampleman, 720 Milton Road, spoke about the issue of the #76 bus route. He said that he has learned that the Department of Transportation is considering the application of Liberty Lines regarding the expansion of the #13 bus route. The matter will then go before an Administrative Law Judge in Albany. Liberty Lines has been asked by the Legislature to prepare cost estimates for adding Milton Point to the #13 bus route. Councilwoman Parker said that she tried to contact the County Executive but he was out of the Country. The City Manager is trying to coordinate schedules to have a meeting.

Jordan Glass, Esq., who represents HealtheHarbor, quoted from the City Code about the Council's ability to investigate and hold hearings. He suggested that former Mayor John Carey provide the Council with suggestions for an independent counsel to conduct an investigation into the allegations against Mayor French. He said he would present the City with a check for \$16,894.19 for legal fees for an investigation, if the Council would agree to his terms: utilize an independent counsel suggested by John Carey; that Mayor French agree to match the amount of legal fees, which would be paid to the Vincenzo Tamburro Memorial fund; and that Mayor French resign if the investigation goes against him.

After Agenda Item 17

Ray Tartaglione read a statement about comments made at the last Council meeting. He said that he did not donate money to Councilman Sack's campaign and did not support his campaign but did support the Mayor's campaign and attended a fund raiser for Mayor French at the home of Robert Schubert. He said the Mayor also spent time at his home during the campaign discussing Rye issues with him.

12. Two appointments to the Conservation Commission/Advisory Council for a three-year term, by the Mayor with Council approval

Councilman Jovanovich made a motion, seconded by Councilwoman Keith and unanimously carried, to appoint Christopher Mignone and Tracy Stora to the Conservation Commission/Advisory Council for three-year terms expiring on January 1, 2015.

13. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department: General Order# 103.10

City Manager Pickup said that the reason for the proposed change is that even though it has only been used once in Rye, the rank and file of the Police Department would like to see the policy on Tasers more widespread because it has become a useful tool to eliminate potential injuries for police officers due to violent confrontations.

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

RESOLVED that the City Council of the City of Rye hereby approves the proposed revision of the Rules and Regulation of the City of Rye Police Department: General Order #103.10, “Deployment of Electro-muscular Disruption Device (Taser).”

ROLL CALL:

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

The Resolution was adopted by a 7-0 vote

This agenda item was taken after agenda item 12.

14. Resolution to declare the RTV Globecaster as surplus
Roll Call.

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

WHEREAS the staff of RCTV has determined that the RTV Globecaster production switcher, Serial Number PA 199829 is obsolete or no longer useful to the City; and

WHEREAS, the staff of RCTV has recommended that said equipment be declared surplus, now, therefore, be it

RESOLVED, that said equipment is declared surplus, and, be it further

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

ROLL CALL:

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

The Resolution was adopted by a vote of 6 in favor and one abstention

15. Miscellaneous Communications and Reports

Councilwoman Keith said that the Sustainability Committee is creating posters to create awareness about the ban on plastic bags. They will give an update at the March 14th meeting on the sustainability audit and to ask the Council to make an Earth Week declaration about the “No Idling” event that will be held in conjunction with Mamaroneck and Larchmont. Ms. Keith also said there will be an upcoming presentation regarding pedestrian safety issues on Forest Avenue.

Mayor French said that the Rye Town Park Commission meeting had been held earlier in the evening at City Hall and the Commission has decided to do away with the \$2.00 beach entrance fee for fireworks nights. The Mayor also said that former Councilman Gerry Seitz has asked for Council reaction to his parking proposal for downtown. The Mayor reported that he and Councilwoman Parker had attended a NYCOM conference in Albany this week.

16. Old Business

Councilwoman Keith asked for updates on the following projects:

- 2 Central Avenue – Black Bass Grill – Corporation Council Wilson said the contractors were supposed to be on site this week to remove the asbestos. She and Building Inspector Maureen Eckman have been unsuccessfully trying to contact the contractor for an update.
- Central Avenue Bridge - City Manager Pickup said that all the requested documents are in front of the Department of Transportation and the City is waiting for an answer.
- Sluice Gate – City Manager Pickup said the specs are out; a pre-bid meeting will be held and the project should come back to the Council for award at the second March meeting.

Ms. Keith also asked about County flood money. Mayor French said that most of the money this year is going to flood mitigation projects on County owned properties. City Manager Pickup said that the City needs to find out how to access the \$50 million allocation across New York State for flood mitigation projects.

17. New Business

There was no new business to be discussed.

18. Adjournment

Councilman Filippi made a motion, seconded by Councilwoman Keith and unanimously carried, to adjourn into executive session to discuss real estate matters at 11:44 p.m. Councilwoman Keith made a motion, seconded by Councilman Jovanovich and unanimously carried to adjourn the executive session at 12:07 a.m.

There being no further business to discuss Councilwoman Keith made a motion, seconded by Councilman Jovanovich and unanimously carried, to adjourn the meeting at 12:07 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk